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OF

The Colonial Society of Massachusetts

TRANSACTIONS

1902–1904

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OF

The Colonial Society of Massachusetts

VOLUME VIII.

TRANSACTIONS

1902–1904

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PREFACE.

VOLUME VIII, now issued, contains the Transactions of the Society at thirteen Stated Meetings, from November, 1902, to November, 1904, both inclusive, in continuation of Volume VII.

The papers in this book cover a variety of subjects, as usual, and are an indication of the scope of the Society's work. Among the longer and more elaborate communications are those upon: the Confiscation Laws of Massachusetts; the Origin of Congregationalism; the Rev. Josse Glover and the Book of Sports; Admiralty Jurisdiction in the Colony and the Province of the Massachusetts Bay; the Use of the term State House; the word Palatine in America; the word Park in the United States; original matter relating to Franklin, and to Washington; the Ten-Shilling Bill of the Provincial Currency, and Samuel Sewall and "Angels;" the Rev. George Burdett, who came to Salem in 1635; and Joyce Junior, the somewhat noted character of Revolutionary days.

There are many briefer papers, among them: Some Incidents in the Battle of the Brandywine; the Indian Attack on Saco and Cape Porpoise in 1689; the propounding by Richard Saltonstall to the Governor and Council of a candidate for third President of Harvard College; the Will of Edward Jackson, the ancestor of many prominent Boston families; and the Bible Record of Governor Shirley.

There are various letters and series of letters: of James Martineau and James Russell Lowell to the Rev. Dr. William Henry Furness; of Nathaniel Walker Appleton to Eliphalet

Pearson; of Joseph Parker, one of the founders of Andover; of Christopher Holder to the Governor, Magistrates, and People of the Massachusetts Bay, touching the persecution of the Quakers; of the Rev. Benjamin Colman to one of his parishioners and to the Rev. Francis Foxcroft; of John Washington, John Augustine Washington, and Judge Bushrod Washington as to the Williamsburg Declaration of Rights of June, 1776, and some matrimonial incidents in the Washington family; and of Increase Mather about a trial of an offender "frequenting the College contrary to law;" and many documents: from the papers of Richard Clarke, one of the Consignees of the Tea; depositions bearing on the Pemaquid land controversies; a deed of John Alden; and copies of obituary verses on the death of Increase Nowell in 1655, of Governor Endicott in 1665, and of Henry Withington in 1666. All these are elucidated by notes.

The book also contains tributes to the memory of JOSEPH WILLIAMSON, of JOHN WILSON, of Chief-Justice JOHN ANDREW PETERS, and of HENRY DWIGHT SEDGWICK; and Memoirs of GEORGE OTIS SHATTUCK, by Edward Henry Hall, and of WILLIAM CROWNINSHIELD ENDICOTT, by Joseph Hodges Choate.

With a single exception, all the illustrations of this book have been engraved expressly for it by Mr. Elson.

With the efficient aid of the Editor, the prompt publication of the Transactions of the Society is now assured, and Volume X., bringing the record down to date, is already well advanced, and a serial will be issued shortly.

Volumes II., IV., and IX., reserved for Collections, are in preparation, and it is expected that at least one of them will be published during the year.

For the Committee of Publication,

JOHN NOBLE,
Chairman.

BOSTON, 31 March, 1906.

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Members who have died since the publication of the preceding volume of Transactions, with the Date of Death.

Resident.

James Read Chadwick, M.D.	24 September, 1905.
James Madison Barker, LL.D.	3 October, 1905.
James Mills Peirce, A.M.	21 March, 1906.

Honorary.

Samuel Pierpont Langley, D.C.L., F.R.S. .	27 February, 1906.

Corresponding.

Gen. Joseph Wheeler, LL.D., U.S.A. . .	25 January, 1906.

TRANSACTIONS

1902–1904

TRANSACTIONS

OF

THE COLONIAL SOCIETY OF MASSACHUSETTS.

ANNUAL MEETING, NOVEMBER, 1902.

THE ANNUAL MEETING was held at the University Club, No. 270 Beacon Street, Boston, on Friday, 21 November, 1902, at six o'clock in the afternoon, the President, GEORGE LYMAN KITTREDGE, LL.D., in the chair.

The Records of the last Stated Meeting were read and approved.

The CORRESPONDING SECRETARY reported that a letter had been received from the Hon. FRANCIS WILLIAM HURD accepting Resident Membership.

The Report of the Council was presented and read by the CORRESPONDING SECRETARY.

REPORT OF THE COUNCIL.

The Society held its Annual Meeting on the twenty-first of November, and, as usual, five Stated Meetings have since been held. At all these meetings valuable and interesting papers were read and original documents and objects exhibited. It may be noted that the discussions elicited by the papers have been more frequent and are increasing, and it may be added that the more generally the members stand ready to present communications, the greater will be the life and interest in the meetings.

There have been added to our Roll six Resident Members,

JAMES ATKINS NOYES,
MARCUS PERRIN KNOWLTON,
MORTON DEXTER,
JAMES HARDY ROPES,
FRANCIS APTHORP FOSTER,
FRANCIS WILLIAM HURD;

and one Corresponding Member,

BENJAMIN FRANKLIN STEVENS.

During the year we have lost by death two Resident Members,

JAMES BRADLEY THAYER,
CHARLES GREELY LORING;

and one Corresponding Member,

BENJAMIN FRANKLIN STEVENS.

The Stated Meeting in February took the character of a Memorial Meeting and a printed report of it, with the tributes paid to Mr. Thayer, has been sent to all the members. General Loring was a distinguished representative of one of the oldest and most prominent families of Boston, — a man as honorable in life as in lineage, who had served his country in the great crisis in its history, and, in the later times of peace, did much for the honor and development of his native city as Director of the Museum of Fine Arts.

In the Council Report of 1898, the importance and value of printing the Vital Statistics of the Massachusetts towns to 1850 was urged. This suggestion has recently been embodied into the law of the Commonwealth, in Chapter 470 of the Acts of 1902, usually known as the Vital Records Bill. Our associate and former Registrar, Mr. Henry E. Woods, was a factor in securing this legislation, and has since been appointed by the New England Historic Genealogical Society editor of Vital Records. Under his scholarly supervision, volumes are being rapidly issued and distributed throughout the Commonwealth.

In more than one of the Reports of the Council the importance of publishing the records of the ancient churches of the Commonwealth has been urged. The Benevolent Fraternity of Churches of the City of Boston has recently done a great public service in printing, under the able editorship of the Rev. Henry F. Jenks, all the records of the Church in Brattle Square, Boston, 1699–1872. It is hoped that the other churches in Boston will follow the good

example thus set by the Fraternity and so make their archives easily accessible in print to many inquirers.

In the Report of the Council at the Annual Meeting in 1894, the importance of printing the early Records of Harvard College was referred to. This suggestion also has borne fruit. During the present year, one of our members has made the generous offer to bear the expense of copying and printing so much of the College Records as will fill a volume of our Publications of the usual size.[1]

Besides reporting the doings of the Society for the year and its present condition and looking forward to its prospects, it is also the duty of the Council in its Report to state the Society's needs. The most urgent need is that of larger Publication funds. The Society is hampered in its work by its limited means. It cannot issue its Publications faster than it can pay for them, and to keep free from debt is now its established policy. The generosity of the late President Wheelwright extricated the Society from its financial embarrassment a few years ago, and an increased income at the disposal of the Publication and Printing Committees would enable them to keep abreast of the work.

A second need, less pressing but still urgent, is that of a permanent home of its own, however modest and plain. In its early years, the Society met by the courtesy of the American Academy of Arts and Sciences in the Hall of the Academy, and, since the Academy's removal to the Back Bay, it has been dependent for the last few years, by a like courtesy, upon the hospitality of the American Unitarian Association. For this generosity and kindness the Society feels under deep obligations to both bodies. If we had some place of habitation, books, portraits, photographs, engravings, manuscripts and relics of all kinds, would be given to the Society, which are now often offered but withheld simply for the reason that the Society has no proper place for their preservation.

The fields of work, in many directions, for such a Society as this, the need of it, the rank it should take, the future opening before it if the opportunities within its grasp are fittingly improved, have been dwelt upon in previous reports and need not now be re-stated.

The Reports of the Treasurer and of the Committee to examine the Treasurer's Accounts were then submitted, as follows:

[1] See Publications, vii. 319, 320.

REPORT OF THE TREASURER.

In accordance with the requirements of the By-Laws, the Treasurer submits his Annual Report, for the year ending 17 November, 1902.

CASH ACCOUNT.

RECEIPTS.

Balance, 16 November, 1901		$913.13
Admission fees	$60.00	
Annual Assessments	710.00	
Commutation of the Annual Assessment from three members	300.00	
Interest	1,281.89	
Sales of the Society's Publications	24.40	
Mortgages (discharged)	1,450.00	
Withdrawn from Charlestown Five Cents Savings Bank	375.00	4,201.29
		$5,114.42

DISBURSEMENTS.

University Press: printing	$1,226.63		
paper	182.38	$1,409.01	
A. W. Elson & Co.: photogravure plates and plate printing		191.87	
Houghton, Mifflin & Co., electrotype		5.00	
Clerk hire		65.50	
Eva G. Moore, indexing		50.00	
William F. Murray, stenography		13.50	
Merchants Parcel and Express Company		14.27	
Carter, Rice & Co., stationery		15.00	
Hill, Smith & Co., stationery		2.00	
Library Bureau, stationery		4.50	
William H. Hart, auditing		5.00	
Miscellaneous incidentals		318.92	
Deposited in Charlestown Five Cents Savings Bank		370.11	
Mortgages on improved Real Estate in Boston		2,000.00	
Interest in adjustment		10.07	4,474.75
Balance on deposit in National Shawmut Bank of Boston 17 November, 1902			639.67
			$5,114.42

The Funds of the Society are invested as follows:

$25,300.00	in First Mortgages, payable in gold coin, on improved property in Boston and Cambridge;
25.11	deposited in the Charlestown Five Cents Savings Bank.
$25,325.11	

TRIAL BALANCE.

DEBITS.

Cash		$639.67
Mortgages	$25,300.00	
Charlestown Five Cents Savings Bank	25.11	25,325.11
		$25,964.87

CREDITS.

Income		$639.67
Publication Fund	$1,000.00	
General Fund	4,325.11	
Gould Memorial Fund	10,000.00	
Edward Wheelwright Fund	10,000.00	25,325.11
		$25,964.78

HENRY H. EDES,
Treasurer.

BOSTON, 17 November, 1902.

REPORT OF THE AUDITING COMMITTEE.

The undersigned, a Committee appointed to examine the accounts of the Treasurer of The Colonial Society of Massachusetts for the year ending 17 November, 1902, have attended to that duty and report that they find them correctly kept and properly vouched, and that proper evidence of the investments and of the balance of cash on hand has been shown to us.

GEORGE V. LEVERETT,
F. APTHORP FOSTER,
Committee.

BOSTON, 19 November, 1902.

The several Reports were accepted and referred to the Committee of Publication.

The Rev. EDWARD H. HALL, on behalf of the Committee to nominate Officers for the ensuing year, made the following Report:

PRESIDENT.
GEORGE LYMAN KITTREDGE.

VICE-PRESIDENTS.
WILLIAM WATSON GOODWIN.
MARCUS PERRIN KNOWLTON.

RECORDING SECRETARY.
HENRY WINCHESTER CUNNINGHAM.

CORRESPONDING SECRETARY.
JOHN NOBLE.

TREASURER.
HENRY HERBERT EDES.

REGISTRAR.
FREDERICK LEWIS GAY.

MEMBER OF THE COUNCIL FOR THREE YEARS.
GEORGE VASMER LEVERETT.

The Report was accepted; and, a ballot being taken, these gentlemen were unanimously elected.

The Rev. EDWARD H. HALL communicated a Memoir of GEORGE OTIS SHATTUCK, which he had been requested to prepare for publication in the Transactions.

After the Annual Meeting had been dissolved, dinner was served. The guests of the Society were the Rev. Dr. James De Normandie, and Messrs. Solomon Lincoln, Stephen Salisbury, Moorfield Storey, and Winslow Warren. President KITTREDGE presided.

Geo. O. Shattuck

Geo. O. Shattuck

MEMOIR

OF

GEORGE OTIS SHATTUCK, LL.B.

BY

EDWARD HENRY HALL.

GEORGE OTIS SHATTUCK was born in the West Parish of Andover, Massachusetts, on the second of May, 1829. His ancestor David Abbot had settled in Andover in 1725, and on the farm then opened to cultivation Mr. Shattuck spent his childhood and youth. An old well, which stood by the roadside till quite recently, marked the spot of the original house built by David Abbot, and was its only relic.[1]

In 1790, the granddaughter of David Abbot was married to Joseph Shattuck, a soldier of the Revolutionary War; and in 1826, their son, Joseph Shattuck, fourth of that name, married Hannah Bailey. George Otis was the second of their four sons. In his early years, he acquired the physical vigor and out-of-door tastes belonging to a healthy country rearing, and retained to the end his love of farm life and thorough acquaintance with its conditions. Andover was also in its way an educational centre, and in its atmosphere, under the stimulating influence of his mother, who had been a teacher before her marriage, he formed in boyhood the intellectual habits which led him finally into his professional career. The parental guidance on both sides seems to have been

[1] For these and other details of Mr. Shattuck's life the writer is indebted to the very complete and interesting Memoir by Chief-Justice Holmes in 2 Proceedings of the Massachusetts Historical Society for November, 1900, xiv. 361–368.

of the best New England quality, as his father held an honorable position in the community, and represented Andover in the Legislatures of 1838 and 1839, at a time when such distinctions meant much more than in later years.

In 1847 young Shattuck entered Harvard College, one of a little group of applicants which was wont to come to Cambridge annually from Phillips Andover Academy. In college he formed warm and lasting friendships, and had an eminently honorable career, though it was long before he found his true position among his classmates, or was recognized by the class in general at his full worth. At this time his social qualities had not reached their full development, and he held himself aloof from his companions, associating with but few and quite unknown to the rest. As a scholar he was outstripped at first by youths of more brilliant parts or more exact training, only to push forward steadily and industriously, year by year, till he left nearly all competitors behind. He graduated among what was then called "the first eight."

A classmate's estimate in college days is not of serious importance in the final judgment of a man of Mr. Shattuck's steady development, yet it may be of interest to quote these words written just before graduation by one not intimate with him at the time, but who amused himself with recording his prophecies of the future distinctions awaiting the Class of 1851:

I find that I always think of Shattuck as the one, of all the members of the Class, who has received least credit for his real abilities. I consider him as not inferior to any, — probably superior to all. He has always separated himself a good deal from the Class through natural reserve, . . . but during the last year he has been better known and more appreciated, though not as he should be, even then. He has some deficiencies however, and I presume one reason of his not being brought out more is some real lack of social qualifications. I do not know him intimately enough to judge. As to his intellectual qualities, however, there is no doubt. He is not a brilliant scholar . . . but he has not only a strong, but a logical and discriminating mind, and as a writer has an elegant style, with no lack of imagination. He has all the elements that will improve by cultivation, and has just the perseverance and judgment to be sure to develop them. His character is as sound and well-balanced as his mind. I look for more from him than from almost any other member of the Class.

After graduating, in 1851, Mr. Shattuck was a teacher for a year in Mr. Stephen M. Weld's school in Jamaica Plain, and entered the Harvard Law School on the seventh of November, 1852, graduating in 1854. He entered at once the office of Mr. Charles G. Loring as a student, and was admitted to the Suffolk Bar in 1855. That same year he formed a partnership with Mr. J. Randolph Coolidge; but in 1856 he became the junior partner of the Hon. Peleg W. Chandler, who gave his young colleague a bountiful share of recognition and friendship. In 1870, he formed a partnership with Mr. William A. Munroe, with which the present Chief-Justice Holmes was for a time connected, which lasted during Mr. Shattuck's life.

Few professional men, I suppose, have given themselves more enthusiastically to their profession than Mr. Shattuck. He loved it unreservedly, found in its practice at the bar ample stimulus to his naturally strong ambitions, and could not be drawn aside from it by the distinguished positions more than once offered him. Among these positions, we are told, was that of judge of one of the Federal Courts and also justice of the Supreme Judicial Court of Massachusetts. Neither could he be tempted by political ambitions, though always interested in the politics of the day, and ready to work in private ways for important measures. His general activities outside his profession, give but little idea of the time and sympathy which he gave to public affairs. His progress in his profession was rapid, bringing him at an early day a prominence which became more and more widely recognized every year. In this leadership it is plain that his personal qualities told for quite as much as his purely legal attainments. His industry was unbounded, his mental faculties fully under control, his ardor for whatever cause he undertook unflagging, his sincerity and integrity immovable. The professional tributes called forth at the time of his death give a remarkable estimate of the man, as formed by those who knew him best; and from these I quote the following striking passages:

Mr. Shattuck's rise at the bar was unusually rapid even for those days, and for many years of his early practice his forensic contests were mainly with men considerably his seniors. . . . He had, as we all know, a great gift of clear, forcible and persuasive speech, reinforced by

an earnestness of manner which was the outward sign of the intense conviction, which he seldom if ever lacked, of the righteousness of his client's cause. He had also the prime manly virtues of pugnacity and courage. He enjoyed the struggle, — the more difficult, the better he liked it. His energy, tenacity and fertility of resource were inexhaustible, and his confidence in the ultimate triumph of right knew no despair. He had, with all these fighting qualities, a cool brain and a fine temper. He was never flustered or irritable or impatient. This fine temper, to my thinking, showed the largeness of his mould and the sweetness of his nature.[1]

With such strength of conviction and resoluteness of purpose we are apt to find, as human nature goes, a certain unamiable quality known as arrogance, — the quality by which we make peremptory demand upon others for submission to our judgment or our will. Very few strong men but have more or less of this quality, but Brother Shattuck, strong as he was in intelligence and conviction and purpose, seemed to me wholly free from it. He was one of the most patient and courteous of men, — a courtesy which was the natural expression of a very kindly nature, — a patience which grew out of sincere modesty in his judgment of himself. He loved the law and the practice of the law, and was happy in its labors, its contests and its rewards. He had also a strong sense of professional brotherhood, without which the practice of the law loses much of its dignity and all of its charm.[2]

From the very beginning Mr. Shattuck has always been a successful man, and, among his contemporaries, a leader; and no one ever doubted that his success and his distinction were deserved. All through his life he won what he got by the strong, direct, vigorous efforts of a man who felt himself competent for his task and who had thoroughly prepared himself for it; in the thick of the struggle he saw what he foresaw. He was a man unused to defeat, and little disposed to tolerate it when it seemed to be thrusting itself upon him. His adversaries often found that he developed at such moments a startling capacity of saving a hopeless cause, by the skill, the careful thinking, the knowledge of law and legal procedure, and the endless persistence and endurance which he would suddenly bring to bear upon the situation.[3]

[1] George Putnam, before the Suffolk Bar.

[2] Causten Browne, before the Suffolk Bar.

[3] James Bradley Thayer, before the Massachusetts Historical Society, 11 March, 1897, printed in its Proceedings (Second Series), xi. 269, 270.

He needed the excitement of advocacy or of some practical end to awaken his insight; but when it was awakened there was no depth of speculation or research which he was not ready and more than able to sound. His work may not always have had the neatness of smaller minds, but it brought out deeply hidden truths by some invisible radiance that searched things to their bones. . . . With the jury, he was a great man in every way. His addresses carried everything before them like a victorious cavalry charge, sometimes, as it seemed to me, sweeping the judge along with the rest in the rout. Latterly, his most successful appearances were in arguments of law. He had learned the all too rarely learned lesson of pointed brevity. In a few luminous words he went to the bottom of his question, and then took his seat. In short, I know of no form of forensic effort in which, at some time in his career, he had not reached as high a point as I personally ever have seen attained.[1]

In 1857 Mr. Shattuck married Emily, daughter of Charles and Susan (Sprague) Copeland of Roxbury, and made his home in Boston, where he lived for the rest of his life. Here the circle of his friends continually widened, and though immersed in professional duties he found time also for all social demands. Among the societies whose companionship he enjoyed was the Wednesday Evening Club, and also a small circle of college contemporaries, at whose informal monthly meetings, held for many years, he was a constant and tenderly-esteemed attendant. During the later years of his life he had a summer home at Mattapoisett, where he was able to gratify his native tastes as cultivator of the soil, and where he entered with keen enjoyment upon the adventures of an amateur yachtsman. He travelled extensively in his own country, especially in the West, and made two trips to Europe, spending a year abroad in 1880. In all these journeyings, while alive to the beauties of natural scenery and to all the charms of travel, he seems to have found his chief interest in the people themselves, whose customs and politics had a special attraction for him. His religious connections, while in Boston, were with the First Church, whose liberal attitude attracted him, and in whose affairs he took a deep and intelligent interest to the end of his life. Into all these varied relations he carried the vigor of a strong and inquiring mind, a

[1] Chief-Justice Holmes, before the Suffolk Bar.

singular beauty and dignity of character, an inborn sincerity, a loyalty of devotion, and a kindliness of manner whose charm none who have shared his friendship can ever forget.

Mr. Shattuck was elected a Resident Member of the Massachusetts Historical Society 13 June, 1889, and a Resident Member of this Society 20 December, 1893. He was a Trustee of the State Library and of the old Boston Library Society for more than thirty years, and an Overseer of Harvard University from 1871 to 1880 and again from 1885 to 1897. With the exception of a brief service as a member of the Common Council of the City of Boston, he declined all public office. One of the last distinctions conferred upon him and deeply appreciated by him, was his election as President of the Bar Association of the City of Boston in 1896. At this time however his health was already failing, and he was never able to preside at its meetings. His death occurred at his home in Boston, 23 February, 1897. His wife survives him. He left also one child, Susan, the wife of Dr. Arthur Tracy Cabot.

Joseph Willinmann

DECEMBER MEETING, 1902.

A STATED MEETING of the Society was held at No. 25 Beacon Street, Boston, on Friday, 26 December, 1902, at three o'clock in the afternoon, the President, GEORGE LYMAN KITTREDGE, LL.D., in the chair.

The Records of the Annual Meeting in November were read and approved.

The PRESIDENT announced the death on the fourth instant at Bath, Maine, of the Hon. JOSEPH WILLIAMSON, a Corresponding Member.

Mr. HENRY H. EDES paid a tribute to Judge Williamson, speaking in part as follows:

The Hon. Joseph Williamson, a son of Joseph and Caroline (Cross) Williamson, was born at Belfast, Maine, on the fifth of October, 1828. Graduating at Bowdoin College in 1849, he studied law with his father and was admitted to the bar in 1852. At once he entered upon a distinguished legal and judicial career, and from 1853 until the end of his life held many political and official positions. His literary and historical investigations, which gained for him membership in various learned societies, began just half a century ago by the publication in 1852 of his Maine Register and Reference Book. His two most important historical works were his History of Belfast[1] and his Bibliography of the State of Maine, the latter published in 1896. Mr. Williamson was elected a Corresponding Member of this Society in March, 1898, and to him the Society is indebted for one paper and for information in regard to many Indian names and localities in Maine.[2]

[1] The first volume was published in 1877. A second volume was completed by Mr. Williamson shortly before his death.

[2] See Publications of this Society, vii. 399–403, and Preface to vol. v. A sketch of Judge Williamson will be found in the Republican Journal of Belfast of 4 December, 1902.

Mr. ALBERT MATTHEWS read a paper on the term State House, speaking in substance as follows: [1]

Not until 1859 does any one seem to have commented upon our familiar term State House. In that year Lowell said: "State-House. This seems an Americanism. Did we invent it, or borrow it from the *Stadhuys* (town-hall) of New Amsterdam?" [2] In 1860 the term found its way into a dictionary. In 1872 De Vere remarked that State House is "a term either specially made to serve the purpose or possibly derived from the Dutch *Stadhuys*, but in either case peculiar to this country." [3] In 1899 Professor Brander Matthews observed:

> These American contributions to the English language are not a few. . . . Some of them are taken from foreign tongues, either translated, like *statehouse* (from the Dutch), or unchanged, like *prairie* (from the French), *adobe* (from the Spanish), and *stoop* (from the Dutch).[4]

As these statements are somewhat conflicting, as some of them are incorrect, and as no attempt has hitherto been made to trace the history of the term, it will perhaps not be without interest to show exactly what that history has been.

The word State, meaning the body politic, was in common use in the American Colonies, as of course it was in England, in the seventeenth and eighteenth centuries, and towards the close of the Colonial period the expressions "the American States" or "the States of America" were occasionally employed; [5] but it was not until after the fourth of July, 1776, that what had hitherto been a Colony or Province was officially styled a State. There can be no doubt that in certain instances the adoption of the term State House was due to, or at least influenced by, the change in style from Colony or Province to State. Thus, in Rhode Island what had previously been known as the Colony House was, soon after the Declaration of Independence, termed the State House. Again,

[1] Mr. Matthews's paper was printed in full in Dialect Notes, ii. 199–224.

[2] Atlantic Monthly, iv. 641; Poetical Works, ii. 197.

[3] Americanisms, p. 254.

[4] Parts of Speech (1901), p. 110.

[5] For examples, ranging from 1773 to 1776, see the Nation, 1 May, 1902, lxxiv. 343, 344.

in Georgia, where various terms had been employed before 1786, State House did not appear until 1791. Neither in New Jersey nor in North Carolina was there a fixed seat of government until Trenton became the capital of the former in 1790 and Raleigh was laid out in the latter in 1792; and not until or after those dates did the term State House appear in those two States. But the facts that, for several years before the Declaration of Independence, the term State House had been in daily use in Connecticut, Delaware, Maryland, Massachusetts, New Hampshire, Pennsylvania, and South Carolina; that it had been in vogue in Virginia between 1638 and 1699; and that it had occasionally been employed in New York in the seventeenth century, — prove that the origin of the term could not have been due to the change in style from Colony or Province to State.

Let us now briefly take up the history of the term in those nine Colonies.

The first meeting of the Virginia Assembly was held in 1619 in the choir of the church at Jamestown, but in less than twenty years the need was felt for better accommodations. On 10 April, 1638, Richard Kemp, Secretary of Virginia, wrote:

> A levy has been raised, according to instructions, upon all tobacco in the colony for the repair of the Fort at Point Comfort and building a state house at James City, part of which tobacco is sent to England by the bearer George Menefie to sell, and with the proceeds to send over workmen to accomplish those public works.[1]

This is the first appearance of the term in this country. A State House was not actually erected by the Colony until about 1663, though previous to that time a building was rented for the use of the Colony and went by the name of the State House. The Virginians were unfortunate in the seventeenth century, and one of their State Houses was destroyed by fire about 1655, another was burned down in 1676 "by that arch rebell and tratour *Nathaniell Bacon, junr.*," while a third was also destroyed by fire in October, 1698. Up to that time Jamestown had been the capital of the Colony, but in 1699 we read:

> WHEREAS the state house of this his majesties colony and dominion in which the generall assemblyes and general courts have been kept and

[1] Calendar of State Papers, Colonial Series, 1574–1660, p. 268.

held hath been unhappily destroyed and burnt downe, and it being absolutely necessary that a capitoll should be built with all expedition, . . . *Be it enacted*, . . . That four hundred seventy-five foot square of land, lying and being at the said *Middle Plantation*, . . . be the ground appropriated to the only and sole use of a building for the general assemblies and courts to be held and kept in: And that the said building shall forever hereafter be called and known by the name of the *Capitol*.[1]

Beverley, writing in 1705, declared that soon after the accession of Francis Nicholson to the government, he —

caused the Assembly and Courts of Judicature, to be remov'd from *James*-Town, where there were good Accomodations for People, to *Middle-Plantation*, where there were none. There he flatter'd himself with the fond Imagination, of being the Founder of a new City. He mark'd out the Streets in many Places so as they might represent the figure *W*, in Memory of his Majesty King *William*, after whose Name the Town was call'd *Williamsburg*. There he procur'd a stately Fabrick to be erected, which he placed opposite to the College, and grac'd with the magnificent Name of the *Capitol*.[2]

It is curious that the only two names now employed in this country — State House and Capitol — should both have originated in the Old Dominion.[3] From 1638 to 1699, State House was the only term employed in Virginia. Though ousted in 1699 by the word Capitol, State House was occasionally employed in the eighteenth century, but its further history need not detain us. The essential fact is that the term was applied to a building which was either owned or rented by the Colony and in which the meetings of the Assembly were held.

In 1639 an act was passed in Maryland providing that "at such time and place as the Leiuten[t]. Generall & Councell shall think fitt there shall be a Towne house built."[4] Nothing, however, appears to have been done until 1662, when there —

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[1] Virginia Statutes, iii. 193, 419, 420.

[2] History of Virginia (1705), i. 99.

[3] For the history of the word Capitol, unknown in the Colonies except in Virginia, see the Nation, 9 May, 1895, lx. 361.

[4] Archives of Maryland, i. 36.

came from the lower howse this following paper. It is voted in this howse necessary that some howse be built or purchased to keepe Courts in, or Assemblyes for the benefitt of the Country . . . Whereupon the Vpper howse took into Consideracõn the place for the Seateing of the State howse.[1]

The building was erected at St. Mary's in 1674. In 1695 Annapolis became the capital, the State House there built was burned in 1704, but was at once rebuilt, and the new building was occupied until 1769, when it was demolished and still another State House erected. It was in this last building that Washington laid down his sword at the close of the Revolution.

Writing in 1655, a Dutchman who visited New Amsterdam in 1642 said:

As I was daily with Commander Kieft, generally dining with him when I went to the fort, he told me that he had now a fine inn, built of stone, in order to accomodate the English who daily passed with their vessels from New England to Virginia, from whom he suffered great annoyance, and who might now lodge in the tavern.[2]

The building referred to, which stood in Pearl street, facing Coenties Slip, was owned by the Dutch West India Company, in 1653 became the Stad Huis of New Amsterdam, and in 1654 was granted by the Directors of the Company to the City of New Amsterdam. In 1664 New York came into the possession of the English, a few years later was recaptured by the Dutch, and in 1674 was restored to the English. In 1655 we read of "a Court holden uppon the Citty Hall of N.Yorke;" in the same year of "a Court held uppon the Citty howse off New York;" in 1670 of the "Towne howse of this citty;" and in 1671 that—

Hans Dyckman Imprisoned uppon Suspition of being accessory to setting the Windowes of the State House on fire, . . . denyed all and every thing what was Laid to his Charge.[3]

In 1699 the old Dutch building was sold, and a new building, almost always called City Hall, erected in Wall street. It was in

[1] Archives of Maryland, i. 434.

[2] Collections of the New York Historical Society, Second Series, i. 101.

[3] Records of New Amsterdam, v. 267, 268, 287; Journal of the Legislative Council of New York, vol. i. p. viii.

this new building, its name changed to Federal Hall, that Washington was inaugurated President of the United States.

The old Dutch building facing Coenties Slip was variously called City Hall, City House, Stadt House, State House, Town Hall, and Town House. The building was owned by the City, the meetings of the Colonial Assembly seem never to have been held in it, it was used wholly for municipal purposes, and the only connection between it and the Colony appears to have been that, after the passage of laws by the Assembly, those laws were proclaimed from the City Hall. In short, that building is completely differentiated from all other buildings in America to which the name State House was given.

In South Carolina an "Act for building a convenient State-House for the holding of the General Assemblies, Courts of Justice, and other Publick Uses," was passed in 1712;[1] but it was not until several years later that a State House was actually erected at Charleston.

In Connecticut, according to President Clap of Yale, —

> The General Assembly in October [1718], "in Order to quiet the Minds of People, and introduce a general Harmony in the Public Affairs, ordered that a *State House* should be built at *Hartford* to compensate for the College at *New-Haven*."[2]

This building was at once erected, and in 1762 a State House was also built at New Haven.

Though proposals to build a State House at Portsmouth, New Hampshire, were made as early as 1718, no building was erected until about 1758.

In 1729 a proposal was made in Pennsylvania to build a State House at Philadelphia, but the building was not begun until 1732 and not occupied until 1736. It is needless to add that this was the famous Independence Hall, still standing.

In 1768 the Delaware Representatives, at a meeting held in their State House at New Castle, petitioned George III.

In a will made in 1653, Robert Keayne gave three hundred pounds "to the Towne of Boston to build a Condit, a Market House & Towne house." On the death of Keayne an additional

[1] South Carolina Statutes, ii. 378.

[2] Annals of Yale-College (1766), p. 28.

sum was raised by subscription, and on 9 March, 1657, a committee was chosen "to consider of the modell of the towne house, to be built."[1] Later the Colony was appealed to, and on 19 May, 1658,—

In answer to the request of the select men of Boston, the Court judgeth it meete to allow vnto Boston, for and towards the charges of theire toune house, Bostons proportion of one single country rate for this yeare ensuing, provided that sufficijent roomes in the sajd house shall be for euer free, for the keeping of all Courts.[2]

When repairs became necessary, it was ordered by the General Court on 9 October, 1667, that the expense was "to be borne & defrajed the one clere halfe by the Tresurer of the country, one fowerth part thereof by the Tresurer of ye county of Suffolke, & the other fourth part by the Tresurer of the toune of Boston."[3] This building, usually called either Court House or Town House[4] by the people of Boston, was destroyed by fire 2 October, 1711;

[1] Boston Record Commissioners' Reports, x. 13, ii. 134.

[2] Massachusetts Colony Records, iv. (i.) 327.

[3] *Ibid.* iv. (ii.) 351.

[4] Several times, however, we find the building called State House. In 1660 Samuel Maverick wrote:

It hath two handsome Churches in it, a handsome market place, and in the midest of it a Statehouse. . . . Boston [is] now a great Towne, two Churches, a Gallant Statehouse & more to make it compleate, then can be expected in a place so late a wilderness (2 Proceedings Massachusetts Historical Society, i. 238, 247).

In 1671 some unknown person remarked:

Boston [hath] a State-house newly erected in the middle of the great Street (L. Roberts's Merchants Map of Commerce, second edition, p. 53).

In his Sermon Preached After the Terrible Fire, in 1711, Cotton Mather, as Mr. Kittredge points out to me, wrote:

Among these Ruines, there were Two Spacious *Edifices*, which until now, made a most Considerable Figure, because of the Publick Relation to our greatest Solemnities, in which they had stood from the Dayes of our Fathers. The One was, the TOWN-HOUSE: the Other, the OLD MEETING-HOUSE. . . . The *Ruines* brought upon us, are very Dreadful ones, and not Easily or Speedily to be repaired. That among these awful Ruines, both our State-House, and the first born of our Meeting-Houses, are made a Desolation; Verily, it looks awfully enough, to make one cry out, *God Avert the Omen!* (Advice from Taberah, 1711, pp. ii, iii, 19, 20).

This application of the term State House is rare, and indicates that the writers were employing it as synonymous with Town House. As will be shown later, this is the only sense in which the term has ever been used in England. See pp. 22, 23, below.

but a new edifice — the present Old State House — was erected on the same site. The new building, until about 1768 almost invariably called Court House or Town House, was injured by fire in 1747 and again in 1760; but the original walls still remain, and the building is doubtless the oldest now standing in this country which has ever been used for the purposes of a State House.

Between 1768 and 1776 various names were applied to the building, as will appear from the following extracts.

The Committee appointed . . . reported, That they had conferred with a Committee of the Court of General Sessions of the Peace for the County of *Suffolk*, and also with the Selectmen of the Town of *Boston*, and that they were consenting to part with their respective Shares in the Town-House (so called) in *Boston*, upon such Terms as shall be agreed upon by the Parties interested therein.[1]

At six o'Clock they return'd to Town; and passing in slow and orderly Procession thro' the principal streets, and round the State-House, they retired to their respective Dwellings.[2]

Is it not then astonishing that the City Hall and even the SENATE HOUSE should be for more than a week put to an use, so ABHORRENT from the original and true intent of them, when the Barracks at the Castle . . . are READY FOR THE PURPOSE![3]

The King's Troops are encamp'd on what is usually called the Common. — Our Parliament House, the Court House and Faneuil Hall are still occupied by Soldiers.[4]

We are therefore constrained thus early to Remonstrate to your Excellency, that an Armament by Sea and Land, investing this Metropolis, and a military Guard with Cannon pointed at the very Door of the State-House, where this Assembly is held, is inconsistent with that Dignity, as well as that Freedom, with which we have a Right to deliberate, consult and determine.[5]

I OBSERVE that the *State-House* in Boston, is commonly called the *Town-House*, which appears to many an impropriety, and different from the practice of all the other colonies. — It is therefore proposed, (if no objection shall be made to it) that the house where our Legislature meets, be in future time called the STATE-HOUSE.[6]

[1] 1767, February 17, Massachusetts House Journals, p. 292.
[2] 1768, August 22, Boston Post-Boy, No. 575, p. 1/2.
[3] 1768, October 10, Boston Gazette, Supplement, p. 1/1.
[4] 1768, October 10, Boston Evening-Post, No. 1724, p. 3/1.
[5] 1769, May 31, Massachusetts House Journals, p. 5.
[6] 1773, June 3, Massachusetts Spy, No. 122, p. 3/2.

Upon a Motion, *Ordered*, That the Committee appointed to see the necessary Repairs of the State-House, provide Cushions for the several Seats in this Room.[1]

After the lapse of more than a century, during which the terms Court House and Town House had proved amply sufficient for the purpose, why should there have been a sudden change in nomenclature about 1768? Almost at once we find, in addition to the two familiar old terms, instances of Parliament House, Senate House, and State House. Writing about 1780 Governor Hutchinson, alluding to events which occurred in 1773 and to Samuel Adams, said:

Mr. Adams's attention to the cause in which he was engaged would not suffer him to neglect even small circumstances, which could be made subservient to it. From this attention, in four or five years, a great change had been made in the language of the general assembly. That which used to be called the "court house," or "town house," had acquired the name of the "state house."[2]

There can be little doubt that the change was due partly to political causes, but the fact, pointed out in 1773, that State House was a common term in many (though by no means in all) of the Colonies, must also have had its influence.

From the evidence thus far given it is seen that the term State House appeared in Virginia in 1638, in Maryland in 1662, in South Carolina in 1712, in Connecticut in 1717, in New Hampshire in 1718, in Pennsylvania in 1729, in Massachusetts in 1768, in Delaware in 1768; and that in all of these Colonies the term had a definite and specific meaning, being applied to a building which was owned (either in whole or in part) or was rented by the Colony, and in which the meetings of the Colonial Assemblies were held. It is also seen that in New York State House occurs only two or three times in designation of the Dutch building which, erected in 1642 as a tavern, from 1653 to 1699 was used as a City Hall. Thus the

[1] 1773, June 29, Massachusetts House Journals, p. 96. Referring to this extract, the late Dr. George H. Moore remarked: "On this occasion also the name of 'State House' first appears, although it did not come immediately into common use" (Old State House Memorial, 1885, p. 198). The extracts given in the text show that the term had already been in use for five years.

[2] History of Massachusetts, iii. 413 *note*.

Stad Huis of New Amsterdam served a quite different purpose from the State Houses which, previous to 1776, existed in no fewer than eight of the Colonies.

Having shown what the American usage has been with respect to State House, let us now turn to England and see whether the term has ever been employed there also. In 1568 Sir T. Gresham wrote from Antwerp that "the Prince . . . came forth with 100 horsemen and proclaimed the articles, . . . before the town house."[1] In 1576 another writer, from the same town, wrote that "the Spaniards then sallied forth between 11 and 12 o'clock, and because the Town Hall and the neighbouring houses offered a determined resistance they were set on fire and burnt down."[2] In 1609 a writer relates of Utrecht that "at break of Day they appointed *two Deputies* to go to the Burgomaster and the other Magistrates, to summon them . . . to present themselves in the *Town-House*."[3] In 1611 Tom Coryat wrote:

> The *Praetorium* [at Nimmigen] or rather Stadthouse (for so in all the Cities & townes of the Netherlands doe they call a Senate house, the word being cõpounded of *Stadt*, which in the Dutch tongue signifieth a towne and house) is a very ancient & stately place.[4]

In 1617 Sir Dudley Carleton alluded to the "stadt-house" at Leyden, and in 1619 to the "stadt-house" at The Hague.[5] In 1622 James Howell spoke of the burning by the Spanish of the "Stadthouse" at Amsterdam.[6] In 1627 Bishop Hall referred to the "State-house" of a Dutch town.[7] In 1634 Sir William Brereton said that "in the west side [of Delph] stands the state-house, the finest state-house said to be in all the seventeen provinces."[8] In 1641 John Evelyn alluded to the "State or Senate-house" of The Hague and to the "stadt-house" of Brussels.[9] In 1657 Governor Bradford stated that Edward Winslow had been married "in

[1] Calendar of State Papers, Foreign Series, 1569–1571, p. 588.
[2] *Ibid.* 1575–1577, p. 413.
[3] In Sir R. Winwood's Memorials and Affairs of State (1725), iii. 108.
[4] Crudities (1611), p. 635.
[5] Letters (1775), pp. 184, 349.
[6] Familiar Letters (1892), i. 123.
[7] Apologie against Brownists, § 9, Works (1628), p. 578.
[8] Travels (1844), p. 19.
[9] Diary (1889), i. 24, 37.

Holand, by ye magistrats in their statt-house."[1] In 1660 Samuel Pepys spoke of the "Stadthouse" at Delft.[2] In 1756 Mrs. Calderwood alluded to the "State-house" at Amsterdam.[3]

It is obvious that the term Stadt House originated with Coryat, that it at once found favor, that it has had an existence in the literary language of England for nearly three centuries, and that it has been applied — as one would naturally expect — only to a City Hall, Town Hall, or Town House in Holland or Germany. It is also obvious that the term State House, as employed by English writers and travellers, is synonymous in meaning with Stadt House. In short, the special meaning which everywhere in America (except in New York between 1664 and 1699) has always attached to the term State House, is unknown in England.

The history of the State House having now been traced on both sides of the Atlantic, we are in a position to ask how the term arose in this country. There seem to be three ways in which this could have come about. First, as has been suggested, State House may have been borrowed from the Stad Huis of New Amsterdam. The evidence given in this paper proves that the term State House was in vogue in both Virginia and Maryland before New Amsterdam came into the possession of the English; that the State Houses of Virginia and of Maryland served quite a different purpose from the Stad Huis of New Amsterdam; that a State House was in existence at Jamestown in 1643, or ten years before the tavern built in 1642 became the Stad Huis of New Amsterdam; and that the term State House was employed in Virginia as early as 1638, or six years before the erection of the tavern. Obviously, therefore, State House could not have been borrowed from the Stad Huis of New Amsterdam.

Secondly, it may be held that as the term State House appeared in England in 1627 and not in Virginia until 1638, the term was introduced from England into Virginia, where it was given a different meaning. But in England State House has been purely a literary term, employed only by writers or travellers describing Dutch or German towns; and it is difficult to believe that a term

[1] History of Plimouth Plantation (1896), p. 206.
[2] Diary (1893), i. 137.
[3] Letters and Journals (1884), p. 111.

used in so restricted a field could have found its way across the Atlantic at so early a period.

Thirdly, another explanation seems possible. It was asserted at the beginning of this paper that the word State, meaning the body politic, was in common use in this country throughout the seventeenth and eighteenth centuries. Some extracts in support of this assertion may be given.

Governor and council to appoint proper times for administration of justice; and provide for the entertainment of the council during their session, to be together one whole month about state affairs, and law suits.[1]

I doe solemnely bynde myselfe, in the sight of God, that when I shalbe called to giue my voice touching any such matter of this state, wherein ffreemen are to deale, I will giue my vote & suffrage, as I shall iudge in myne owne conscience may best conduce & tend to the publique weale of the body.[2]

I feare your tye or obligation to this state [Massachusetts], & in speciall to this towne [Ipswich], is more then yow [J. Winthrop, Jr.] did well consider when you ingaged your self another way.[3]

I am confident you [the Governor of Massachusetts] desire their [the Indians'] good, with the safety of your own state.[4]

If the State & the Elders thinke that the matters I treate on are not tanti or that they are just occasion of Disturbance, I shall be content they will advise of them 12. moneths or more, wth silence on my parte During that space.[5]

Now if you & the Deputie thincke meete to send to the Gouvernor & State there [Virginia] to send him [N. Eaton] back, . . . Mr. Younge his shippe is like to stay thise 2 or 3 dayes yet, who is bound for Virginea.[6]

It pleased God to stir up the heart of one Mr. Harvard . . . to give the one half of his estate . . . towards the erecting of a Colledge, and his Library: after him another gave 300 l. others after them cast in more, and the publique hand of the State added the rest.[7]

[1] 1621, Virginia Statutes, i. 116.
[2] 1634, Massachusetts Colony Records, i. 117.
[3] 1635, N. Ward, 4 Massachusetts Historical Collections, vii. 25.
[4] 1638, R. Williams, Letters (1874), p. 119.
[5] 1639, T. Lechford, Note-Book (1885), p. 89.
[6] 1639, J. Endecott, 4 Massachusetts Historical Collections, vi. 136.
[7] 1643, New England's First Fruits, 1 Massachusetts Historical Collections, i. 242.

I have forborne to write vnto you [J. Winthrop] a long tyme, by reason of your greate and continuall imployments in your State affayres, but now, hearing your assembly is dissolved, I make bould to trouble you with my grievances.[1]

It is thus seen that in the early days here it was common to speak of "the State" and of "State affairs." Is it unreasonable to maintain that when the need was felt in Virginia for a building devoted to the public business, that building was called a State House because in it the affairs of State — that is, the body politic — were transacted? Attention may be called to three passages which are pertinent to the discussion. In 1654 Edward Johnson, referring to certain Indians, wrote: "They having thus nobly feasted them, afterward gave them Audience, in a State-house, round, about fifty foot wide, made of long poles stuck in the ground, like your Summer-houses in *England*." [2] In 1666 Robert Sandford, also alluding to Indians, observed:

Being entered the Towne wee were conducted into a large house of a circular forme (their generall house of State) right against the entrance was a high seate of sufficient breadth for halfe a dozen persons on which sate the Cassique himselfe . . . the Towne . . . hath a large Prospect over Meadows very spatious and delightfull, before the Doore of their Statehouse is a spacious walk rowed with trees on all sides tall and full branched.[3]

And in 1709 John Lawson, likewise referring to Indians, remarked:

These Revels are carried on in a House made for that purpose, it being done round with white Benches of fine Canes, joining along the Wall; . . . In these State-Houses is transacted all Publick and Private Business, relating to the Affairs of the Government, as the Audience of Foreign Ambassadors from other *Indian* Rulers, Consultations of waging and making War, Proposals of their Trade with neighbouring *Indians* or the *English*, who happen to come amongst them.[4]

Here we seem to have precisely the same idea that, if my interpretation is correct, was present in the minds of the Virginians. If

[1] 1645, R. Vines, 4 Massachusetts Historical Collections, vii. 352.
[2] Wonder-working Providence, p. 109.
[3] Colonial Records of North Carolina, i. 125.
[4] New Account of Carolina (1709), pp. 36, 37.

it is objected that it is absurd to speak of "the State" in connection with the affairs of an Indian tribe, the reply is that precisely this absurdity and similar absurdities were committed again and again. In 1643 Roger Williams wrote: "These expressions they [Indians] use, because, they abhorre to mention the dead by name, . . . and if any stranger accidently name him, he is checkt, and if any wilfully name him he is fined; and amongst States, the naming of their dead *Sachims*, is one ground of their warres."[1] In addition it may be pointed out that half-naked and miserable chiefs and head-men of petty tribes were dignified with the splendid titles of "emperors," "kings," "dukes," "lords," "princes," and "nobles." In short, the early colonists and writers attributed to the Indians the only political and social system with which they were familiar, — that of Europe; and the absurdities which arose therefrom have been perpetuated even to the present time.

The conclusion reached by the present writer is that State House, as Lowell suggested might be the case, was "an invention of our own."

The reading of this paper was followed by a long discussion, in which the PRESIDENT and Messrs. WILLIAM C. LANE, GEORGE V. LEVERETT, CHARLES A. SNOW, WILLIAM T. PIPER, LINDSAY SWIFT, and GEORGE WIGGLESWORTH participated.

In the absence of Mr. JOHN NOBLE, Mr. HENRY W. CUNNINGHAM presented on his behalf the following communication:

A paper of interest has lately been met with in the Chamberlain Collection in the Boston Public Library, — a collection of original papers of great value and remarkable in many respects. The paper is connected with the trial of Samuel Gibson of Cambridge, in 1685, for "frequenting the College contrary to law," which was made the subject of a communication to this Society in April, 1897.[2] It is an original letter of Increase Mather, then Acting President of the College, addressed to Lieutenant Jonathan Remington. It seems

[1] Key into the Language of America (1643), p. 194.
[2] Publications, iii. 448–470.

to have been occasioned by a fear that the case might lag in its progress through the Appellate Court, or by some anxiety to have the interests of the College duly looked out for. The fear was apparently groundless, as in those days, or at least in this case, justice appears to have been absolved of its proverbial characteristics, — the conviction in the County Court being in April, the appeal entered in August, and the determination of the case at the sitting of the Court of Assistants begun on the first of September.

This paper together with a large number of others, two hundred or more, was apparently at one time a part of the early files of the Court in Suffolk County, a collection which has lately been arranged and bound up, and of which a description has been given in a previous communication.[1] Like so many others of its original and long-time associates, it had in the vicissitudes of years somehow, before the Court took in hand the arrangement of papers above referred to, escaped or been withdrawn from its legitimate home, to find itself sheltered amid alien surroundings.

I must here express my satisfaction that these numerous Court papers, though they have become estranged from the protecting care of the Court of whose records they once formed a part, and in whose custody they would seem to belong, have at least found a refuge safe and secure; and at the same time I express my obligations for the courtesy and help of the officials of the Public Library in affording me every facility for the examination and use of documents confided to their care.

The letter of President Mather is now presented as an appendix to my former communication, and runs as follows:

L: JONATHAN REMINGTON

There is a case brought by Samuel Gibson of yo: Towne to the Hon^d^ Court of Assist^rs^ by Appeale from the Judgm: of Cambridge Court; wherein the Colledge is concerned. his disorderly practises with his companions having been very prejudiciall to the students, by drawing them from their studyes, debauching their manners & putting them ^ unnecessary expences at the cost of their Parents. And not understanding any care taken by the Court to make Answer to his reasons of Appeale; These on behalf of that Society, are to request yourselfe to draw some Answer to his Reasons and to appeare in Court, and to make Answer

[1] Publications, iii. 317–327.

to such pleas as said Gibson shall further make for the defence of his disorderly practises of this nature. And what you shall do herein shall be accepted as your well wishers and endeavours for the good of said Society. please to appeare to morrow morning early, which is all at present from

yor affectionate friend

BOSTON, Sept: 1. 1685.

INCREASE MATHER

Mr. HENRY W. CUNNINGHAM spoke as follows:

The Jonathan Remington to whom Mather addressed the above letter was a well-known citizen of Cambridge. Though only a carpenter by trade, he was from an early period much engaged in public affairs, and often appeared at court, where he served many times upon juries and grand juries and repeatedly as foreman.[1] He does not seem to have been on the jury in the year 1685, but his familiarity with the business of the court may have induced Mather to select him as a suitable person to watch the progress of the case.

Jonathan Remington, son of John and Elizabeth Remington, was born at Rowley 12 February, 1639–40, but when quite young removed to Cambridge, where he married 13 July, 1664, Martha, daughter of the first Andrew Belcher and aunt of Governor Jonathan Belcher. Paige says that he lived at the corner of Brattle and Ash Streets from 1665 to 1682,[2] when he exchanged that estate for the original Blue Anchor Tavern on the northeast corner of Brighton and Mt. Auburn Streets. This tavern had been kept by his father-in-law Belcher from 1654 until his death in 1673, and then by Belcher's widow probably till her death in 1680, when she was succeeded by her son Andrew. Evidently the latter exchanged a year or two later with Remington, who was his brother-in-law.

Remington was Corporal, and later Captain, of local military companies and served in King Philip's War[3] at Groton, at Wells, and further to the eastward, and received a grant of land in Narragansett Township Number Two, now Westminster, Massachusetts, which was claimed by his son. He was a Selectman of Cambridge nine years between 1688 and 1700, Town Clerk in 1693, 1698,

[1] See Records of the Court of Assistants, vol. i., *passim*.

[2] History of Cambridge, p. 639.

[3] G. M. Bodge, Soldiers in King Philip's War (1896), pp. 278, 417.

1699, 1700, and the Town and Selectmen's Records are filled with references to him.[1] He died 21 April, 1700, aged sixty-one, and his wife Martha died 16 July, 1711, aged sixty-seven.

Jonathan Remington (1677–1745), son of Lieutenant Jonathan Remington, was a distinguished man, graduating from Harvard College in 1696 and being Tutor and Fellow of the College. He was later Selectman, Representative, Councillor, Judge of the Court of Common Pleas, Judge of Probate and Judge of the Superiour Court. He was a cousin and intimate associate of Governor Belcher, and Paige says that in accordance with their common wish they were buried in the same tomb.

The case about which Mather wrote the note to Lieutenant Remington came to trial very soon, and the jury returned a verdict in favor of the plaintiff Gibson, reversing the action of the lower Court.[2]

Mr. EZRA RIPLEY THAYER of Boston was elected a Resident Member.

On behalf of the Hon. JOSEPH HODGES CHOATE, an Honorary Member, Mr. HENRY H. EDES communicated a Memoir of WILLIAM CROWNINSHIELD ENDICOTT, which Mr. Choate had been requested to prepare for publication in the Transactions.

[1] See Records of the Town and Selectmen of Cambridge (1901), *passim*. Facing p. 323 is a facsimile page of Remington's handwriting as Town Clerk.

[2] Records of the Court of Assistants, i. 275.

MEMOIR

OF

WILLIAM CROWNINSHIELD ENDICOTT, LL.D.

BY

JOSEPH HODGES CHOATE.

MASSACHUSETTS cherishes with just pride the character and career of WILLIAM CROWNINSHIELD ENDICOTT, and The Colonial Society, of which he was an active member, is especially interested in honoring and perpetuating his memory. Born in 1826, when John Quincy Adams was President, and dying in 1900, in the fourth year of William McKinley's official term, he lived in the administrations of nineteen Presidents of the United States. His seventy-three years covered the most eventful and critical period of the country's history, and during a considerable portion of his life he was engaged in the public service of the State and the Nation, in conspicuous positions, which he filled with great credit to himself and advantage to the community, and always with conscientious fidelity. In all the relations of life he commanded universal confidence by the absolute purity and dignity of his personal character.

A glance at the scenes and the circumstances of his boyhood will shed some light upon the happy development of the man. He inherited a proud name, and with it a just pride of ancestry, which he cherished through life without affectation and without suffering it in the least to impair his democratic sympathies. It was a great distinction to be the descendant and bear the name of the first Governor of Massachusetts, who was sixteen times elected to that most important office, and who stands as a great historical figure,

first in time among the founders of a noble State. His sturdy and rugged reputation, by no means fading in the lapse of time, has dominated Salem and the County of Essex down to our own day, and constitutes one of the local treasures. If the portraits of the Governor which have come down to us are to be relied upon, Mr. Endicott in the eighth generation bore a marked resemblance in feature and bearing to this distinguished ancestor. It would have been an excellent thing both for Mr. Endicott and for the State, if he too in his day and generation could have been elected Governor of Massachusetts; and I cannot help thinking that the example and career of the early Governor, of which he must always have borne some impression, was an element in the moulding and development of those qualities which enabled him in after life to fill high office with success.

The first Colonial Governor was not the only ancestor of whom he was justly proud. His lineage in all its strands can be traced back to all that was best in the early history of the Colony. The Crowninshields, the Derbys, the Gardners, the Williamses, the Putnams, and the Mannings, who had been among its prominent families from the seventeenth century, were of his line, and they had had much to do with the making of Salem and of the State. The Crowninshields and the Derbys in particular had a great part in the development of our early American commerce, when Salem ships, owned and navigated by them, penetrated to the remotest quarters of the globe, and made the little town a great commercial port and her name known the world over. They were pioneers of trade and commerce in the Far East, where they carried in honor, upon ships of their own building, the flag which has now, for a time only let us hope, practically disappeared from the ocean, and they brought home great cargoes which enriched themselves and the place of their residence. Mr. Endicott's maternal grandfather, Jacob Crowninshield, was a very conspicuous man, a prominent member of Congress, and was appointed Secretary of the Navy by President Jefferson, who was a close personal friend, — an honor which he declined for what seems now, in these days of steam and electricity, the very singular reason "that he could not be absent all the year from his business and family." He was a great navigator and merchant and was fully equipped on all questions which would have come before him as Secretary of the Navy, an office to

which his brother Benjamin W. Crowninshield, a man of the same quality, was ten years afterwards appointed by President Madison. It was in sympathy with this sea-faring and ship-owning branch of his family that Mr. Endicott in after years was such a firm advocate of the doctrine that the restoration of its once powerful mercantile marine was essential to the true greatness of the United States, and ought to be accomplished at whatever cost. Thus the subject of this memoir came, through many generations, of the best stock and breeding of Massachusetts. As might have been expected, the quality and the fibre of his natural character were worthy of the best nurture and education which his time afforded, and these produced the high-toned and cultivated gentleman, the public-spirited citizen, the wise judge, and the pure and safe statesman whom the world knew.

Salem was a unique and interesting community in those days. She had lost or was fast losing her commercial supremacy, but the descendants of her ambitious navigators and successful merchants were enjoying in the second and third generations the fruits, and the best fruits, of their success. A highly intelligent and cultivated society had grown up there, with an aristocratic leadership into which the Endicotts naturally came. Wealth, travel, and education had contributed to its culture and progress. There was probably more wealth and there certainly were more college graduates, in proportion to the population, than in any other town of New England. It was a conspicuously intellectual community. A few of the great merchants still lingered among us in advanced years, and the sons and daughters of many who had passed away occupied their places and enjoyed the good results of their fortunes. The professional men, who abounded in numbers and character, had great weight and gave the tone to the civic community. The Essex Bar was still a powerful fraternity and its most distinguished members resided in Salem. Her physicians and clergymen and men of science and learning occupied worthy and influential positions. Horace Mann was arousing enthusiasm for popular education. The atmosphere of the place was decidedly liberal. Harvard College and the Unitarian movement had broken the back of that hateful, dogmatic theology which, in the days of Salem Witchcraft and its high priest Cotton Mather, had disgraced the place and given it an unwholesome reputation. At the same

time, there was a distinct individuality about the town. It was shut in and quite apart from other towns and cities, and the life of the place was all contained within itself, so that whatever happened in Salem or ever had happened in Salem was of supreme importance to its citizens. Communication with the outer world was extremely limited. Endicott was eleven years old when the railroad first reached Salem from Boston. The semi-weekly press supplied the local news of the day, but brought very tardy intelligence as to events beyond the limits of Essex County; and so the people of Salem had to be, and were, sufficient unto themselves. The habits of the place were extremely simple. Until the murder of Captain Joseph White, in 1830, it was not uncommon to leave the house door unlocked and unbarred. The police force of the town consisted of two maimed veterans, and there was still a great deference among the people towards the leading citizens.

Fortunate was the boy whose lot was cast in Salem in those days. All his surroundings tended to keep him in the right path, and the facilities for a liberal training were of the best. I remember Endicott, a bright, handsome, and extremely courteous and agreeable boy, in 1840 or thereabouts, when he began to prepare for Harvard at the Latin School, a public school strictly devoted to preparing boys for college, where nothing but Latin, Greek, and Mathematics was taught. This school has come down from the very earliest days of the Colony. It was founded in 1637 and furnished to the first class that graduated from Harvard, in 1642, at least one man who afterwards became distinguished on both sides of the Atlantic. The discipline was severe and absolutely equal. It was a strictly democratic community, and it is certain that every boy found there his level and learned to realize that all are made of one flesh and one blood. Every year the school sent to Harvard a group of boys well prepared and proud of their nativity, who in numbers and standing held no mean place in the small classes of those days.

Harvard College, when Endicott entered it in 1843, was hardly more than the germ of the great and powerful University which now exists at Cambridge. The whole number of students, less than three hundred, did not equal the number of teachers now employed. There was a mere handful of professors and tutors. The curriculum in the first quarter of the century had not changed

much since the days of our fathers. The four old dormitories, Massachusetts, Hollis, Stoughton, and Holworthy, Harvard, University and Gore Halls, and Holden Chapel constituted the entire plant. The method of tuition varied little from that pursued in the preparatory schools, consisting chiefly of learning by rote and reciting lessons, with a very few lectures. Examinations were little more than nominal and were oral; the modern system of cramming, unloading and forgetting, had not come in; the elective system had not begun; the stimulating influences and remarkable facilities now enjoyed were unknown. For all this, it is hardly yet possible to say that the new methods are producing a set of men sounder and abler and more efficient for the service of the community than the old. Comparing the graduates from 1820 to 1850 with those from 1850 to 1880, — while the latter group far excels the former in numbers, it can hardly be said to have produced men superior in quality or in distinction. The social advantages of those days were great, an admirable class feeling prevailed, there was very close friction man with man, and each one found his place. At any rate, Harvard then furnished the best that America afforded, and Endicott got the full benefit of it. He appears not to have been a very hard student, but improved his time in acquiring a knowledge of books and of general literature, which stood him well in hand as a great reader in his subsequent laborious life. Among the meritorious students of the Class, he stood in the third grade and at Commencement he delivered a disquisition on Public Honors in Different Ages. Although he was not a member of the Phi Beta Kappa at graduation, he was, in 1858, elected into that society of scholars. In the four years of his residence at Cambridge, he acquired an ardent love of the College as a centre of learning and culture, in which his own intellectual life had been nourished, and a high appreciation of its value as one of the chief factors in the promotion of American civilization. This made him through life the devoted servant of his Alma Mater, and the important part which he took in the care of her interests and the development of her usefulness, resources, and influence, entitles him to the grateful recognition of his countrymen, quite as much as the more public service which he rendered in conspicuous official stations.

The actual and rapid development of the ancient College into

the great University, which now leads the educational forces of the United States, began in 1869 with the election of President Eliot, who with a courage, wisdom, concentration of purpose and fertility of resource entirely unsurpassed, has conducted its affairs and brought it, by the devotion of a long life to its service, to its present commanding position. During a large part of this long period, Mr. Endicott was honorably connected with the government of Harvard, and by careful and skilful attention to its welfare upheld the arms of the President, and had a full share in the great work of progress which Mr. Eliot designed and accomplished. In 1875 he was elected a member of the Board of Overseers for two years, and again in 1876 for six years more, and a third time in 1883 for a further term of six years. On Commencement Day, 1882, the Degree of Doctor of Laws was conferred upon him "in glad recognition of his attainments, station, and influence," — an honor which I am sure he enjoyed as much as any distinction which ever came to him. In 1884 he was elected a Fellow of the Corporation, and, withdrawing from the Board of Overseers, as the positions were incompatible, he continued for eleven years, until September, 1895, to discharge the important and responsible duties of a member of the Corporation which really controls the destinies of the University. In recognition of his loyalty he was elected President of the Alumni. Thus for twenty years he served the University with unfailing devotion. The value of his long and close attention to its interests could not be better expressed than by the Resolution passed by his associates on the occasion of his resignation, because of failing health, in 1895, — a resolution which certainly received the cordial approval of all the Alumni.

The Board desire to record their sense of the high value of Judge Endicott's service to the University, and their regret at losing his support in the discharge of their trust. He brought to the service of the University an honored name, professional distinction, and a high reputation in the community for impartiality, dignity, and firmness.

The members of the Board will greatly miss at their meetings not only these rare personal possessions, but also his sincere friendliness and the charm of his courteous, cordial manners.

I have thus surveyed by itself the history of his relations with Harvard from the date of his entry in 1843 until his withdrawal

from the Corporation in 1895, a period of more than half a century; and this I have done quite in advance of any reference to his professional and political services, because to my mind it is fully as important as the rest, and because it shows in a clear light what manner of man he was, — a typical Harvard man of the highest grade, who received and enjoyed all the benefits and honors which the College had to bestow, and who, in glad and grateful recognition of the nurture he had received within her walls, revelled in her success and through a long life did all he could to promote it. Whoever knows Massachusetts well, knows that such a man must have been of her very best.

When Mr. Endicott was approaching the end of his college course, the choice of a profession naturally presented itself and the charms of a commercial career were pressed upon him. Great opportunities in Eastern commerce, in which Salem and his friends had still a strong interest, were held out to him, but his tastes lay in the direction of law and literature and the possibilities of political life which the profession of the law might open to him, as it has always been the chief avenue to public life in America. The thirst for wealth which has become such an absorbing and voracious appetite in these last days had never fastened upon him, and he wisely chose the professional career in which he could by no possibility hope to become rich, but for which his natural faculties and inclinations so admirably suited him. Having completed his legal studies with Nathaniel J. Lord, a noted and very accomplished advocate of that day, and at the Harvard Law School, he was admitted to the Bar in Salem in 1850, and immediately began the practice of the profession which requires of those who would win its highest prizes more patience, industry, and self-denial than any other calling; but he had good health, a reasonable ambition, strength of will, and great tenacity of purpose, and soon won his way to a successful practice. There were still giants at the Essex Bar in those days, and some of those great advocates who had won their first fame there and afterwards moved to wider spheres of activity, occasionally returned to share in its conflicts. The local contestants had among them many very powerful men, with whom Mr. Endicott was soon called to contend, and in a long career of more than twenty years he not only held his own, but gradually and steadily came to the front, so that at the time he was called to

the Bench he was without a superior at the Bar of Essex, which he had so long adorned.

During the early years of his practice it was occasionally my privilege to hear him try and argue cases, especially before juries in the Salem Court House. He had not yet come to the full maturity of his professional strength, and was not engaged in the larger cases of which he afterwards commanded a full share, but he possessed and exhibited the prime qualities of successful advocacy. Thorough preparation, unvarying coolness, and great readiness were of course his, but what always seemed to me to be his distinguishing characteristics, were his transparent honesty and fairness and his extreme and uniform courtesy. The tricks of the trade had no charms for him. Both Judges and Juries believed what he said. They knew they could trust him, and so they put their confidence in him. Where he ought to win he won, and I do not believe that he ever regretted losing a case that he ought to have lost. At the same time the charm of his manner, his winning presence, his clear and agreeable voice, and his unruffled calmness conciliated the good-will of all, and made it difficult for more boisterous or less scrupulous advocates to get the better of him; and all the while he was qualifying himself without knowing it for the eminent place to which he was at last unexpectedly called, and became a thorough master of the law. There was no luck in his success at the Bar; there seldom is. Patronage did not help him; there was no patronage. Clients wanted always the man who could best take care of their interests, and gradually they more and more resorted to him. His character told strongly in his favor in the race for success, and his naturally good and sound judgment and common sense, strengthened by study and legal training, made him a favorite professional adviser.

These were twenty-three years of stern and strenuous toil and rigid self-denial, of which the advocate's life is always full, leaving him but little time to indulge in literature which he loved. Reading was his pastime and recreation. There was very little opportunity for sport in those days in Essex County, — sport which does so much in England for the professional man, and is now beginning to do something for all sedentary men in America. The gospel of hard work was still the universal creed in New England. While he was pursuing his law study and in the very

earliest years of his professional life, he held a commission from the Governor in the militia of the Commonwealth, as First Lieutenant and afterwards as Captain of the Salem Light Infantry, the crack corps of its day; and many a time, with admiring eyes, I have seen him, looking every inch a soldier, proudly marching at the head of his little company, which in those days enjoyed great local fame. Incidentally, as time went on, politics appear to have given him some diversion, and no doubt had his professional labor been less engrossing, might have engaged his serious attention. He served several years in the Common Council of Salem and was one year its President. For many years he was elected or appointed City Solicitor, and four times he was the unsuccessful Democratic candidate for Attorney General of Massachusetts, and once for Congress in the Essex District. I attach, and I think he attached, but little importance to these political diversions, except as they manifested his public spirit and willingness to serve the State or City when duty called, and the growing and general estimation in which he was held by his fellow-citizens. It was upon his equipment and reputation as a lawyer of the first rank, however, that his subsequent public service rested.

Mr. Endicott's preparation for judicial life, unconscious though it was, and without a thought on his part of ever being called to serve the community in that position, was constant and uninterrupted through the whole twenty-three years of his career at the Bar. The experience of the English Courts, where for centuries it has been the recognized rule to fill vacancies on the Bench by the appointment of the leaders of the Bar, has proved the wisdom of the rule and the success of the system. However improbable it might seem, *a priori*, that the advocate's contentious habit of mind, persistently and strenuously exercised for half a lifetime, could easily be laid aside and exchanged for the judicial habit and temper, long experience has demonstrated that leading and thoroughly trained advocates have generally become sound and impartial judges. Their previous mental labors have not only made them thorough masters of the law, but have also given them an extensive and far-reaching insight into human affairs in all their variety and complexity. An advocate of Mr. Endicott's keen intelligence and vigor of mind could not possibly spend a long series of years in the conduct of litigation in a homogeneous

community like Massachusetts without becoming perfectly familiar with every sort of legal question that could arise among the people, and with the entire range of subjects and facts which the solution of those questions involved. In such a practice as his, too, there was a department of work, which is in its nature judicial, — the giving of professional opinions on every kind of question that could arise in a county of widely diversified business and interests, and here Mr. Endicott excelled. The same self-reliance and independence of judgment, which, added to his innate spirit of justice, went so far to explain his success at the Bar, made his professional opinions worth having and acting upon. His mind was proof against the insidious temptation which sometimes induces the lawyer to lean towards the opinion that is needed or desired by the party who consults him, and to convince himself unconsciously on the side of his retainer. It was not in his nature and character to yield to such a temptation. His written opinions while he was at the Bar were really judicial, and we are not surprised to learn from the highest authority[1] that "some of [them] upon difficult questions . . . had a weight scarcely less than that accorded to the decisions of [the Supreme Judicial Court.]"

Thus we find Mr. Endicott at the age of forty-six in the very prime of life, full of health and vigor of body and mind, foremost in the forensic arena of his neighborhood, and admirably qualified in mind, character, manners, temper, and experience to be a good and useful Judge. Had he lived in a jurisdiction where the Judiciary is elective by the popular vote, the chances would have been ten to one at least against his ever being made a Judge. He had never curried popular favor or coveted applause, he had been diligent in his business to a degree that made it impossible to keep himself in evidence before the people, even had he desired it; he scorned all the arts of the demagogue, and had never sought or thought of the position. The party to which he had belonged nearly all his life, and to which he conscientiously adhered at great personal sacrifice, was and had long been in a hopeless minority in the Commonwealth whose chief magistrate had the power of appointment; but fortunately for the administration of justice within her limits, Massachusetts has faithfully adhered to that ancient

[1] Attorney-General Knowlton.

and conservative system, of the appointment of Judges by the head of the State to hold office during good behavior, which for more than two centuries has worked well in England and for more than one has made our Federal Judiciary the stronghold of Justice and kept the judicial name above suspicion and reproach. So, when, in 1873, Governor Washburn, a Republican, appointed Mr. Endicott, a Democrat, without his knowledge or any solicitation on the part of his friends, as the best man that he could find in the Commonwealth for the office, to be one of the Justices of its Supreme Judicial Court, he gave a signal demonstration of the merits of the system, and at the same time commanded the cordial approval of the Bar throughout the State.

Though taken by surprise, Mr. Endicott promptly answered "ready," and immediately took his place in that distinguished tribunal, which from the beginning has been the crowning glory of Massachusetts, and has, perhaps, done more than any other Court except the Supreme Court of the United States to maintain the judicial purity, dignity, and power. His six associates were already eminent and experienced Judges. The work of the Court was incessant and heavy, and to assume at once his full and equal share of its labors called for the full exercise of his best powers. It has always seemed to me that while at the Bar he had considerable reserved power, and did not put forth all his strength. At any rate he did not often make those strenuous and desperate exertions which stern necessity compels from men who know that they must succeed or perish. His circumstances were comfortable and his success and leadership came easily, to a degree which convinces me that in a wider field, where the strife was harder he would still, with more of a struggle, have worked his way to a leading place, similar to that which he had attained at the Essex Bar; but now, in the Court, his judicial duties tested his powers, and demanded his full strength from the beginning. He was armed with the full panoply of justice. He was not one of those Judges who, as often happens under the elective system, have to be educated upon the Bench. He entered at once on a term of arduous labor which lasted without interruption for more than nine years, and to which he applied himself with such an earnest endeavor to do his whole duty, that at last it exhausted his health and strength, and came dangerously near terminating his extremely useful life. In

the words of the distinguished advocate[1] whom I have already quoted: —

> From the very beginning he proved himself to be an admirable Judge. His first opinion, printed upon the page following that containing the memorandum of his appointment, . . . showed the hand of a master. With scarcely an unnecessary word or phrase, and yet with a felicity of expression that never failed him, it reached its conclusions in a way that made them appear to be almost axiomatic. It was a model opinion; one of the kind that convinces even the losing side. The standard thus at once reached was consistently maintained throughout the ten years of his service. Not one of his opinions has been over-ruled.

This last statement is a signal testimony to his judicial ability, fidelity, and power of research, for the twenty-two volumes of Reports of the Court during his tenure of office contain 378 opinions written by him, upon almost every conceivable question of law, many of them involving the study and analysis of intricate and tangled questions of fact, and from first to last bringing before him for review the whole complex and multifold life of the people of a busy and enterprizing Commonwealth. This regular and severe work of hearing arguments, attending consultations, and writing opinions, was frequently interspersed with the holding of jury trials in both civil and capital cases, a service for which his admirable temper and long and varied experience as a jury lawyer had specially qualified him. Only those engaged in the profession can justly appreciate the prodigious amount of drudgery, labor, and strain, as well as of intellectual exertion of the highest quality involved in such a life, for one who, like him, was inspired with the earnest purpose to do his whole duty in the best way possible. Of course, many cases were easy of solution, but he must have had constantly on his mind the more difficult ones that required exhausting investigation and deliberate consideration, — always very wearing work. In disposing of these, he must have kept constantly in mind the necessity of living up to the traditions and reputation of the illustrious tribunal of which he was a member. The physical labor thrown upon him was no trifling matter. The age of universal stenographers and typewriters, which enables us

[1] Attorney-General Knowlton.

now to despatch twice as much business half as well, had not yet fully come, and his son tells us that his opinions were, "for the most part, in his own handwriting."

Apart from the written results of his continuous and well-sustained industry as they appear in the Reports, the testimony is harmonious and universal to his superior excellence as a Judge. His inherent natural qualities formed the basis on which his judicial character rested. He was healthy-minded and high-minded, and of adequate intellectual force and strength; he was truly learned in the law, and he had an innate sense of justice and a love of fair play which enabled him to hold the scales of justice always even. There was a dignity and repose about him, absolute impartiality, and uncommon courtesy, that made him upon the bench the ideal impersonation of Justice. It was never my good fortune to see him in the discharge of his judicial duties, and I may perhaps be permitted to quote a few words from the very sincere and affectionate tributes that were paid to him at the Bar Meeting, and in the Court immediately after his death, by those who had long been in close contact with him.

His natural open-mindedness and his essentially judicial temperament were recognized on all hands.

A more dignified, graceful, and effective presiding magistrate it has never been my fortune to see on the Bench.

The individual charm that belonged to him, the handsome presence, the refined and expressive countenance, the gracious and genial manner, only his contemporaries and professional associates can justly appreciate.[1]

His urbanity and his knowledge of men and of affairs rendered the transaction of business in his Court smooth and expeditious.

His opinions were sound and his culture and command of language lent them terseness and lucidity.[2]

To great beauty and natural grace of person were added a dignity of bearing which did not fail to impress all who came before him, and a winning courtesy of manner which attracted and charmed everyone.

He was the learned, accomplished, high-minded gentleman upon the Bench.[3]

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[1] Hon. Richard Olney.

[2] Mr. Solomon Lincoln.

[3] Mr. Lewis S. Dabney.

[In all cases,] his judgments will be found . . . satisfactory, his learning adequate, his perception of the real points clear, his grasp firm and strong, his power of statement marked, his style excellent.

His name will be enrolled amongst those whom the Bar of Massachusetts will evermore hold in respect and honor.[1]

Above all, he loved justice and right and truth and honor. . . Such a man may well be said to be born a Judge.

His sweetness of temper was proof against all irritation. . . To try a case before him afforded a distinct and peculiar pleasure, due simply to the manner in which the Judge conducted the trial.[2]

He was a gentleman, in the truest sense of the word. His work left no doubt that he was also a lawyer. And when the gentleman and the lawyer are combined in one the result is the best type of Judge.[3]

Chief-Justice Holmes well portrayed his judicial character: —

I . . . think that he represented in the superlative degree my notion of the proper bearing and conduct of a Judge. Distinguished in person, with the look of race in his countenance which in more ways than one suggested a resemblance to that first Endicott to whom Massachusetts owes so much, he sat without a thought of self, without even the unconscious pride or aloofness which seemed, nay, was his right, serenely absorbed in the problems of the matter in hand, impersonal yet human, the living image of Justice, weighing as if the elements in the balance were dead matter, but discerning and collecting those elements by the help of a noble and tender heart.

Such tributes as these from those who knew him best, uttered with evident truth and sincerity nearly twenty years after he left the bench, indicate how deep and lasting a mark he had left upon the profession. He was an eminently good, wise, and useful Judge, and ranks high in the long list of the members of the Court who have made it so eminent among American tribunals. His heart was in his work and his conscience too, and he appears to have been singularly free from judicial faults that are not uncommon. He had none of that impatience which leads some judges to interfere and take the case out of the hands of counsel, before the trial or argument has fairly begun, as if they knew it all better than those who were responsible for its conduct and had made it

[1] Hon. Charles Allen. [2] Mr. Causten Browne. [3] Attorney-General Knowlton.

the subject of protracted study. He respected the rights of the Bar as carefully as he maintained the dignity and authority of the Court, and was never dictatorial or domineering. His nerves and temper were always well in hand, so that he was never peevish or petulant. He never sought by the exercise of his judicial functions to win applause or attract popular favor, but was content and anxious only to do justice. Remembering the shortness of life and the value of time, he did not overload his opinions with superfluous quotations from authorities and precedents, but expressed his reasons with brevity, clearness, and force, and so carried conviction and left his decisions worthy models for imitation. The one pre-ëminent trait which made him a marked man among his fellows, at the Bar or on the Bench, was his charming courtesy and attractive dignity of manner, which made him a universal favorite in Court, so that whether he was conducting a trial or argument as counsel, or presiding in the tribunal of which he was an ornament, he was a fine example of the finished and perfect gentleman. It was no light measure of praise when the Chief-Justice[1] said of his manners that "his example has prevailed, and that now it is the rule that a lawyer will try his case like a gentleman, without giving up any portion of his energy and force."

I have dwelt at considerable length upon his judicial career, because to my mind the office and the service of the Judge are the highest and noblest that man can exercise upon earth, and in his hands they suffered no detriment. He wore the ermine gracefully and transmitted it as spotless as he received it. Judge Endicott very closely resembled the ideal judge as portrayed by Rufus Choate in his celebrated address on the Judicial Tenure: —

> A man towards whom the love and trust and affectionate admiration of the people should flow; . . . one to whose benevolent face, and bland and dignified manners, and firm administration of the whole learning of the law, we become accustomed; whom our eyes anxiously, not in vain, explore when we enter the temple of justice; towards whom our attachment and trust grow even with the growth of his own eminent reputation.

The strain of his faithful and unremitting labor, in the tenth year of his service, resulted, as too often happens, in broken health and

[1] Hon. Oliver Wendell Holmes.

shattered nerves, and compelled him, against the earnest protest of all his colleagues, to send his resignation to the Governor,[1] whose response well expressed the judgment of the State for which he spoke: —

> It is with the greatest reluctance and only upon conviction that your determination is final that I accept your resignation of the office of Justice of the Supreme Judicial Court. I express the unanimous sentiment of the Commonwealth when I say I regret the loss to Massachusetts of your learning and wisdom, and express the hope that you may soon be restored to health and to the judicial service which you have so long adorned.

This remission of labor was timely, and after a year or two of repose and travel he returned to Massachusetts restored in health, with much capacity for future service, though never so robust as of old.

Mr. Endicott was never a politician and with all his charming manner and attractive personality he never cultivated those arts which win popular favor and applause. As we have seen, he had often been a candidate for Attorney-General and once for Congress, but these nominations were not of his own seeking and he probably never lifted his voice or hand to secure votes. His party in the State had long been sadly demoralized, but the nomination of Mr. Cleveland for the Presidency in 1884 roused it to new activity, and its convention at Worcester unanimously insisted upon nominating Mr. Endicott for the high office of Governor. No office could possibly have been more attractive to him, and there was no man in the State who would have more fitly adorned it. It must have touched and awakened, I will not say the desire, but rather the dream which he must have cherished, of the possibility of filling the place which his renowned ancestor had so worthily filled. Nothing could be more captivating than the idea of such an hereditary succession by the will of the people after an interval of seven generations; but whether it was that he distrusted his recovered health, or shrank from the uncongenial pursuit of a hotly contested and extremely doubtful campaign, he at first refused the nomination which was thrust upon him by the Convention in —

[1] Hon. John D. Long.

merited recognition of his life-long devotion to Democratic principles, his fidelity to all the public trusts he had assumed, and the dignity, honor, and rectitude that had always marked his intercourse with his fellow-men.

But being finally persuaded that his candidacy might help the election of Mr. Cleveland, in whose behalf he was warmly enlisted, he, much against his will, accepted the nomination upon the rare but highly characteristic condition that he should not be required "to take the stump." His acceptance was an acknowledged tribute to the "honesty, fidelity, courage, and patriotism of the national candidate."

Attracted by his loyal devotion to the principles in support of which he had himself been elected, while Endicott had been defeated, Mr. Cleveland, though personally a stranger to him, in considering the composition of his Cabinet, in February, 1885, invited him to Albany and offered him the position of Secretary of War. Upon full consideration of the responsibilities and sacrifices which the position would exact, and in the same spirit in which he had led the party in Massachusetts, he accepted the office, which he filled acceptably and to the public advantage for four years from the fourth of March, 1885. It was well for him that the office in that period of peace and tranquillity did not impose upon him the colossal duties and difficulties that have lately rested upon the stalwart shoulders of his successor, the present incumbent. The routine of the Department in those days, though exacting, was uniformly quiet, and his health and strength proved entirely adequate to the highly creditable and useful discharge of every duty cast upon him.

The only fighting which the United States Army had to do during his administration was in the suppression of Indian outbreaks, and the last of the considerable Indian fights ended happily in 1886 with the final defeat of the Apaches and the capture of their chief, Geronimo, who had given infinite trouble.

He contributed to the Cabinet and Administration of Mr. Cleveland, an element of great refinement and culture, the charm of his attractive personality, social gifts of a high order, great wisdom in counsel, purity of character which commanded the confidence of the approving Nation, and a loyal support and encouragement to

all the earnest efforts of his chief for the reform of the public service and the maintenance of the national credit and dignity, and we have the cheerful and emphatic testimony of the present distinguished Secretary of War, that the position which Mr. Endicott held in the Cabinet —

> though foreign to his training, he immediately rendered conspicuous by strict attention to duty, and a keen interest in the Army and its requirements. . . He initiated many important reforms which, pressed to successful conclusion, enabled him to maintain undiminished that high standard of integrity for which the Department of War has ever been distinguished.

It would not be useful here to detail or to summarize the many important subjects of a technical nature which engaged his attention as Secretary of War and which have passed into the history of the army and the country; but as indicative of his faithful support of Mr. Cleveland's efforts to promote the stability of the civil service, it is worthy of special notice and remembrance that out of a total of 1619 employees of the War Department and its bureaux, whom he found when he took office, all of whom had been appointed by the opposite political party, he made, in the four years of his tenure of office, only thirteen removals except for cause or for the reduction of the force.

He took a vivid and constant interest in the Academy at West Point, as the invaluable nursery of military education, upon which the good name of our Army and its officers must always depend, and his addresses to its graduating class from year to year were patriotic and stimulating. With persistent energy and zeal he initiated many re-organizations and reforms of bureaux and departments of the Army Service, the beneficial results of which are permanent and of great utility. The Board of Fortification and other Defences, created by an act of Congress on the day before he took office, to devise measures for the defence of the coast and harbors and seaboard cities and which is known as the Endicott Board, cast upon him, as Chairman, most laborious duties, and established the policy according to which our coast defences are now maintained out of large appropriations made for the purpose. His four annual reports to Congress disclose an enormous amount of detail work most faithfully done.

Judge Endicott was a good speaker, and on the few occasions which enlisted his sympathies and on which he permitted himself to be drawn upon for such service, he delivered excellent discourses. His elaborate and sympathetic addresses in 1869, at the dedication of the Museum of the Peabody Academy of Science in Salem, and in 1878, on the two hundred and fiftieth anniversary of the landing of John Endicott, commanded great attention, and their perusal discloses an intimate acquaintance with the local history of his native city and county and a deep interest in the development of New England. Besides his devotion to Harvard College, his interest in the cause of education was manifested by his service as a Trustee of Groton School and of the Peabody Education Fund.

After his retirement from the Cabinet in 1889, he resumed the practice of his profession in Boston, in a quiet and dignified way. His advice and services were eagerly availed of by many important interests, which he served as long as his waning health permitted, till at last, worn out by his long course of professional and public service, he retired to his country seat at Danvers, where, surrounded by scenes that had been familiar to his great progenitor, and in the enjoyment of all that should accompany old age, he passed the evening of his days in dignified repose.

Such a sketch as this that I have attempted, of one whose career was for the greater part of it conspicuous in the eyes of his fellowmen, might, perhaps, remain without reference to that inner life, known only to his family and his friends and guarded by himself as something too intimate and sacred for other eyes to penetrate. And yet, in his case, the memorial must be very incomplete which fails entirely to notice this side of his existence.

The strategy of a soldier, the invention of an author, the policy of a statesman may be, and often have been, independent of the circumstances of their domestic life and even of their private character; but William Endicott was through all, and above all, a great gentleman; and he could not have been this, had his innermost thoughts and most intimate surroundings been other than they were.

So I will say, in few words, that no man has ever been more beloved by those nearest to him, none has had warmer friendships and kept them longer unchanged, and none has had greater power of attracting and giving sympathy in his intercourse with all sorts

and conditions of men. Joined to the reserve, which was so marked a part of his nature, were a keen appreciation of character and a kindly sense of humor that won for him the affection and respect of all with whom he was brought into contact. The old Yankee farmer, the country lawyer, the little tradesman in the town were as much at home with him as the most cultured writer and distinguished jurist whose friendship he had made among the first men of his time both in America and in Europe.

To all alike his dignified simplicity and tolerant humanity equally appealed; and, while the most learned and cultivated found in him a refined and delicate intelligence, the loving regard of humbler minds was not less surely attracted by his generous sympathy and transparent honesty.

And so he passed away, keeping clean to the end the unstained record of his ancestors, and leaving behind to his family and his friends the memory of a pure, an upright, and an unselfish life. Whether we regard him as lawyer, judge, statesman, or citizen, he commanded the respect and affection of his own generation, and his memory should be handed down to those who come after us as a model for the Americans of the future.

JANUARY MEETING, 1903.

A STATED MEETING of the Society was held at No. 25 Beacon Street, Boston, on Thursday, 22 January, 1903, at three o'clock in the afternoon, the President, GEORGE LYMAN KITTREDGE, LL.D., in the chair.

After the Records of the December Meeting had been read and approved, the CORRESPONDING SECRETARY reported that a letter had been received from Mr. EZRA RIPLEY THAYER accepting Resident Membership.

Mr. ANDREW MCFARLAND DAVIS read the following paper on —

THE CONFISCATION LAWS OF MASSACHUSETTS.

AN examination of the several resolves passed by the Committee of Safety and the Provincial Congress in Massachusetts, and later the resolves and statutes passed by the Assembly of the Colony, will reveal the fact that there was some authority to be derived therefrom for nearly every outrage committed upon the property of the Loyalists in the name of the Committees of the several towns.[1] No such legislation exists, however, under cover of which assaults upon the person could be justified. The great dramatist

[1] The legislation considered in this paper is that which applied to refugees like John Chandler and to their property. The following Acts which reached the cases of Loyalists who remained in Massachusetts, are not discussed. Perhaps reference to them is necessary to round out the subject: —

The Act for disarming persons notoriously disaffected to the cause of America, passed 1 May, 1776 (Province Laws, v. 479);

The Act for taking up and restraining persons dangerous to this State, passed 9 May, 1777 (*Ibid.* v. 641);

The Act for securing this and the other United States against the danger to which they are exposed by the internal enemies thereof, passed 10 May, 1777 (*Ibid.* v. 648);

The Act for prescribing and establishing an oath of fidelity and allegiance, passed 3 February, 1778 (*Ibid.* v. 770);

together with the several amendments, additions, and explanations of these acts subsequently passed.

represents the brawlers in the streets of Verona, even while carrying out the traditions of the houses to which they belonged, as discussing whether they had the law on their side before they would take their chances of injuring their opponents in a street fight. Not so the Patriots. However scrupulous they might be in seeking the protection of the law before invading property rights, they did not hesitate to maltreat offending Tories in a lawless and scandalous manner. Acts of this sort that were perpetrated in the name of Committees were subsequently brought under the ægis of the law. Any member of any of the Committees of Correspondence, etc., who at any time prior to the Declaration of Independence made any mistake in the seizure of property or in apprehending or confining any person was, by a law passed for that purpose, screened from suits for damage.[1]

The resolves and the statutes of this period also tell the story of the progressive change of feeling towards the Loyalists which accompanied the growth of belief that the colonies might prevail and that a separate government might be the result of the contest then going on. Even before the first collision at arms, many loyal citizens sought protection in Boston from the abuse of their former friends and neighbors. So long as there was no form of government, except that under the Charter, there was no such thing as an abandonment of property involved in taking such a step as this, but after the organization of the Provincial Congress, Massachusetts was for a time practically under two governments, the one having control in Boston, the other covering the rest of the Province. When, therefore, after the battle of Lexington, citizens of the towns near Boston fled to that place, their flight, in some cases at least, was accompanied by an abandonment of property. In some instances, relatives were left in charge of the homes thus deserted, but there were many prominent men who felt that personal safety was the first consideration, and who, being entirely unprepared for the unexpected situation, were compelled to leave their homes without having had a chance to install representatives. Property thus abandoned was exposed to pillage. Its protection

[1] An Act to indemnify, and to secure from prosecution in law, persons who by their laudable exertions under the late government of the king of Great Britain, have exposed themselves to actions of damage, and other prosecutions, in certain cases, passed 10 April, 1780 (Province Laws, v. 1169).

was the first thought of the authorities. Sequestration could not at that time have entered the mind of anybody as a possible solution for the question of its future disposition. It may be assumed, therefore, that the sole motive which governed the first legislation touching property in this condition was the protection of the community from the excesses of evil-doers. The exposed property was a temptation. There was a measure of responsibility on the part of the Patriots for this exposure. It could be atoned for in part by assuming control of the property for the benefit of whom it might concern. This was evidently the spirit in which the Committee of Safety, 3 May, 1775, instructed the quarter-master-general to pay the strictest attention that the household furniture of those persons who had taken refuge in the town of Boston might be properly secured and disposed of in places of safety.[1]

The masterful tone and the revengeful spirit of the Confiscation Act are entirely wanting here, and yet the next step taken, even though it was more than a year before the Declaration of Independence, is characterized by an apparent confidence not altogether warranted by the military situation, a confidence which analysis shows to have been, after all, merely apparent. This time it was the Provincial Congress which spoke, and on the twenty-second of May, forbade all persons in this "Colony" taking any deed, lease or conveyance of the lands, houses or estates of the refugees.[2] The object of this was clear enough. Refugees, if permitted, would hasten to lodge their titles in the names of relatives or friends less objectionable to the Provincial Congress than themselves. It will be observed that the resolve does not undertake to prevent refugees from making such conveyances, but simply forbids others to take them. In order to make such

[1] Province Laws, v. 706; and The Journals of each Provincial Congress of Massachusetts, in 1774 and 1775, and of the Committee of Safety, *etc.*, p. 534.

In the note to Chapter 38, Laws of 1776–77 (Province Laws, v. 706–713), Mr. Goodell has collected not only the legislation on this point but also much material bearing upon it. In a similar way he has performed for us the same service in connection with Chapters 24, 48 and 49, Laws of 1778–79 in the same volume (pp. 1004–1009, 1052–1057, 1064), which deal with the same general subject at a later date. There is more of detail in these notes than can be produced here, but their examination will disclose how exhaustive they are and how little is left for the student of the subject to do.

[2] Province Laws, v. 706; Journals of the Provincial Congress, *etc.*, p. 249.

deeds effective, the grantee must have been some person who could have access to the property. This was only possible at that time for such as had given in their allegiance to the Provincial Congress, hence the resolve in this form probably served its purpose.

Events had advanced far enough to stir up the more radical of the Patriots to a desire for aggressive legislation but not far enough to relieve the apprehensions of the timid and the conservative among the legislators. The first armed collision had taken place, but the lesson of confidence in the courage of the undisciplined volunteers then thronging on Cambridge Common, soon to be learned at Bunker Hill, had not been received. There was nothing which should cause even the timid to hesitate in the passage of a resolve to which obedience was alone expected from those who had given in their fealty to the Provincial Congress. There was nothing in its wording which portended confiscation, yet this compulsory retention of titles in the names of the refugees must have had some such ulterior intention.

Meanwhile, the Committee of Safety was in closer touch with current events bearing upon this property question than was the Provincial Congress. Complaints of the waste and destruction of the property of refugees poured in upon the committee in such numbers that on the twelfth of June 1775, they called the attention of the Provincial Congress to the subject.[1] How close was the touch and how trivial were some of the affairs with which the Congress and the Committee concerned themselves is shown by the recommendation to the Committee made by the Congress in consequence of that appeal. They were requested to have the grass cut on certain estates of refugees in Cambridge, Charlestown, Roxbury and Milton, and to secure it in some convenient place for the benefit of the colony.[2] Two committees were appointed by the Congress, one to take care of estates of refugees and one to take into consideration the property of persons who had left their habitations in sundry towns in the Colony and who had "discovered" themselves to be enemies to the Colony and the continent.[3]

[1] Province Laws, v. 706; Journals of the Provincial Congress, *etc.*, p. 563.

[2] Province Laws, v. 707; Journals of the Provincial Congress, *etc.*, p. 322.

[3] Province Laws, v. 707; Journals of the Provincial Congress, *etc.*, p. 337, and Report of Committee, 17 June, p. 348.

On the twenty-first of June, 1775, the Provincial Congress recommended the selectmen and the committees of correspondence of towns where any of the property of refugees was to be found, to take possession of such property and protect it from waste. They were to keep a record of the rents and profits which they should receive and they were to account to the Provincial Congress or the Assembly of the Colony for what they should collect, when thereto required.[1] This important resolve lies at the base of all subsequent legislative action down to the passage of the Confiscation Act. The underlying principles are the same as those which were subsequently elaborated into the act to prevent the waste, destruction and embezzlement of the property of refugees. All property of refugees was to be seized and the rents and profits therefrom were to be accounted for to the government.

The use in this connection of the descriptive title The Assembly of the Colony calls attention to the legal theory under which the proceedings of the colonists had theretofore been conducted. There was of course no provision in the Charter under which such a body as the Provincial Congress could have been organized. Its members, although in revolt against the duly appointed representative of the Crown, had not as yet thrown off allegiance to Great Britain, nor was the situation such that they could with confidence expect that their proceedings would eventuate in such a result. They bore the same relation to the Crown as did their ancestors when they seized and imprisoned Andros, and the name Provincial Congress which they adopted was to a certain extent a misnomer, for the essence of a province was that it should have a Governor appointed by the Crown. The elective body which in the summer of 1775 was organized for legislative purposes through the instrumentality of this Congress was styled an Assembly of the Colony, and as such its first act was to legalize the doings of the "Provincial Congress of the Colony."[2]

The attitude taken in the resolve of the twenty-first of June would seem to have been too bold for some of the legislators, for, on the eighth of July, they secured the passage of an explanatory resolve, to the effect that the resolve of the twenty-first of June

[1] Province Laws, v. 707; Journals of the Provincial Congress, *etc.*, pp. 368, 369.

[2] Province Laws, v. 415.

was only intended to apply to such estates as were "left unimproved and void of any occupant or possessor." Other estates ought not to be so treated until the refugees should be "regularly indicted and tried for their supposed offences."[1] The operation of the resolve differed from that produced by the one passed on the third of May, as follows: Instead of being restricted to the household furniture of those who had taken refuge in Boston, it applied to all abandoned property in the Province, and instead of the custody being turned over to the quarter-master-general, the property was intrusted to the care of the selectmen and committees of correspondence. The cause of these changes is obvious. To avoid insult and actual physical maltreatment, Loyalists from all parts of the Province had been compelled to take refuge in Boston. If, in so doing, they left behind them property without adequate provision for its care, it was plain that so narrow a description as "household furniture" might not cover all cases. The appointment in the original resolve of the quarter-master-general as custodian was evidently a mere temporary makeshift. The transfer of the keepership of the seized property to the selectmen and committees of correspondence was a practical acknowledgment of responsibility and indicated a recognition of the probable necessity for a more protracted custody and an acceptance of the self-imposed trust.

Legislation with reference to abandoned property was permitted to rest in the condition laid down by the resolve of 21 June, 1775, as amended by that of the eighth of July of the same year, for about ten months. The subject was however discussed from time to time in the legislative body representing the people, whether congress or assembly, and the various propositions then introduced indicate that the representatives were becoming more and more aggressive. Thus, on the fifteenth of August, 1775, the House appointed a committee to examine the resolutions of the Continental Congress respecting refugees and report what was required to be done.[2] Again, on the ninth of November, 1775, a resolve was passed in the same body empowering the selectmen and committees of correspondence, in towns where refugees had

[1] Province Laws, v. 707; Journals of the Provincial Congress, *etc.*, p. 476.

[2] Province Laws, v. 707; House Journal, p. 73.

[illegible] both real and personal, to take care of the personal [illegible] and to sell stock which could not be kept on account of the [illegible] of fodder; to take care of the produce of the farms; to keep an account of their doings and report to the court when required.[1] The Council amended this resolve in three ways: They wanted to have the control of the selectmen and committees limited to abandoned property; they desired to have the report under oath; and they wished to preserve a loop-hole for refugees who might have some explanation to give of their conduct. This they proposed to accomplish by defining the purpose of the required report to be "that justice may hereafter be done to the public as also to those individuals, when due inquiry can be made into their conduct."[2] Apparently, these amendments were not acceptable to the House. The subject was again taken up by the Representatives on the fifth of January, 1776, and a committee appointed to bring in a report.[3] On the eighth a resolve was submitted to the House.[4] The hostility of the refugees was set forth in the preamble in strong terms. They had left behind them estates liable to waste and perish, and in some instances had arranged to receive rents from their real estate and the proceeds of sales of their personal property. The selectmen and committees of correspondence of any town where such abandoned estates were situated were to take possession of the same; and to manage the real estate and dispose of the personal estate, in such manner that no part of the rents or proceeds would get in the hands of the refugees. Proper accounts were to be kept for the information of the General Court when required. This resolve, like its predecessor, met with amendment in the Council.[5] The most important of the changes suggested seems to convey the idea that certain Patriots fleeing from Boston had arranged with Loyalists who had taken refuge in Boston for an exchange of property. The Council proposed

[1] Province Laws, v. 707; House Journal, p. 254; Massachusetts Archives, ccvii. 270.

[2] Province Laws, v. 708, where Mr. Goodell adds: —

By the minutes upon the original resolve in the Archives as well as by the recorded doings of the Council and the House upon this resolve on the 18th and 27th, it does not appear to have been passed, notwithstanding an entry to that effect in the so called records of the General Court.

[3] House Journal, p. 119. [4] *Ibid.* pp. 127, 128.

[5] For this amendment, see House Journal, 11 January, 1776, p. 141.

that after the clause requiring a report to the General Court, there should be added the words —

"to whom they are to be accountable, provided always that nothing in the foregoing resolve shall extend to such estates real or personal as are now improved by persons late inhabitants of the town of Boston, who have given up their estates in said town to the owners of estates on which they now dwell."

This amendment was not accepted by the Representatives, and at this stage the proposed legislation was apparently arrested.

On the fourteenth of February, 1776, the subject was again considered by the House. A resolve was reported which was duly passed and sent up for concurrence.[1] This resolve was, in substance, the same as that which had been passed by the House on the eighth of January, but to the clause requiring the selectmen and the committee to report their doings to the court when required by that body, these words were added, "and unto whom they shall be accountable." There was also a proviso added to the effect that the resolve was not to be construed to include estates which had been conveyed to persons friendly to the Colony prior to 22 May, 1775. There is no record of the action taken by the Council on this specific resolve, but it may be assumed that it failed of passage in that body.

Meantime, the evacuation of Boston introduced a new set of problems urgent in their nature and requiring immediate attention. The compulsory withdrawal of the English army and fleet, not only affected military affairs, but the prestige gained by the Americans in consequence of this important success reacted upon the political situation. It is not strange, therefore, to find immediately after this event, that thoughts of confiscation began to obtrude in the body from which all aggressive action had heretofore come. On the nineteenth of March, 1776, it was moved in the House that a list of the Boston Loyalists be made out, and an order was passed for the appointment of a committee to bring in a bill for the confiscation of the estates of persons who had aided the enemy.[2] It would seem that the Council was not ready for this step, for on the twenty-fifth of March the General Court appointed

[1] Province Laws, v. 708, 709; House Journal, p. 293.
[2] Province Laws, v. 1052; House Journal, p. 18.

a committee to repair to Boston and make an inventory of the real and personal property belonging to the mandamus councillors, commissioners of customs and others, open and avowed enemies to the rights and liberties of America, who through fear of the American arms and the just resentment of their injured countrymen had departed the town of Boston, and report the same to the court as soon as may be. Meantime, they were to cause such effects to be secured so as to prevent embezzlement.[1] This committee found unexpected obstacles in the way of securing possession of the property of refugees and sought for and obtained, on the third of April, 1776, an extension of their powers.[2] The resolve under which this was granted, recites that the Court was informed that some of the estates of the refugees were then in the occupation and possession of persons who had clandestinely taken the same, and others were held under pretence of gift, sale or attachment. To secure possession of these estates the committee was authorized to examine under oath persons suspected of having in their possession estates of refugees in the same manner as was permitted by the law governing estates of intestates. The committee was also authorized to take possession of property belonging to persons in Great Britain, the management of which was by power of attorney lodged in the hands of refugees. All of this without regard to legal proceedings instituted since the nineteenth of April, 1775.

On the sixth of April, 1776, justices of the peace were appointed to examine Loyalists whose names were on the list.[3] On the eighth of the same month, the House recurred to the question of confiscation but was then held in check by the Council.[4] On the ninth, the House passed a resolve extending the provision as to inventories of property of Loyalists to all towns and requiring committees of correspondence, safety and inspection, aided by the justices of the peace, to prepare lists of refugees.[5]

Having thus made provision for securing as far as possible the

[1] Province Laws, v. 709, 1064; House Journal, pp. 37, 40, 41.

[2] Province Laws, v. 709; House Journal, p. 75; Massachusetts Archives, ccviii. 328.

[3] House Journal, pp. 88, 89. [4] *Ibid.* p. 96.

[5] Province Laws, v. 1052; Massachusetts Archives, ccviii. 357; House Journal, p. 104.

property in Boston abandoned by the refugees who accompanied the British army to Halifax, the House took up the resolve originally introduced on the fourteenth of February, and on the nineteenth of April, 1776, passed a resolve in which the Council concurred on the twenty-third.[1] The preamble asserted that certain enemies of the Colony and others who had left the Colony with intent to aid the enemy had left behind them real and personal property subject to waste. The committees of correspondence, safety and inspection, in each town where there was property of this sort which the committees believed was the property of such refugees, were instructed to take possession of the property and to manage the estates according to their best judgment. They were to lease the real estate for one year; and to return an inventory of the personal property and a statement giving details as to leases. Estates occupied by persons friendly to the Colony under written conveyance dated prior to 22 May, 1775, were exempted from the operation of this resolve. To this was added another clause intended to reach Loyalists who had not absconded, but had aided the enemy. The committees were ordered to return to the court a list of such Loyalists, including therein the names of those who had voted any address to General Gage approving his errand to the Colony or his acts as Governor since the dissolution of the General Court at Salem in 1774; or to Governor Hutchinson after the arrival of General Gage; or to General Howe; or who had signed or promoted any association for joining or assisting the enemy; and, finally, a list of the refugees who had left the Colony with the British army or fleet. Accompanying such lists, the committee were to forward evidence to prove that the names on the lists were properly there. There was a qualifying paragraph which probably means that the names of the Loyalists who had given satisfactory evidence of having abandoned the cause of the Crown and of having become true Patriots were not to be included in the lists. Justices of the peace were to aid in the preparation of the depositions. There is a degree of hesitancy in this resolve, which, under the circumstances, seems singular. The evacuation of Boston was such a triumph for the American forces that the Patriots must thereafter

[1] Province Laws, v. 710; House Journal, pp. 153, 154.

have felt reasonably secure in taking whatever steps they chose. To a certain extent this feeling is shown in calling for lists of Loyalists and refugees, but the power of control over the estates of refugees was limited in such a way as to indicate some ulterior purpose as to these estates. The leases of real estate which the committees were authorized to make were limited to one year and no authority whatever to dispose of personal estate was conferred in the resolve. It was soon realized that this resolve conflicted with the one of the twenty-fifth of March, appointing a committee to take charge of the abandoned estates in Boston. This situation was remedied by the passage on the second of May of a resolve continuing the powers of this committee until further order of the General Court, notwithstanding the resolve of the nineteenth of April.[1]

By this time it was realized that the fugitive Loyalists had left behind them families dependent for their support upon the property which had been seized and in this resolve recognition was had of the obligation which the government had assumed by taking possession of the property. This was accomplished by adding a proviso which gave authority to the committee to make allowance out of such estates, or the improvement thereof, for the support of the wives and children of the persons whose property was in the hands of the committee. The committee was also ordered to dispose of perishable property by auction. Through the above-mentioned action, provision was, to a certain extent, made for the support of the families of the Boston refugees, but no thought was had for those who were similarly situated elsewhere in the Colony. On the twenty-fifth of June, 1776, however, a committee was appointed by the House to inspect the returns of the committees of correspondence with respect to the estates of refugees and to report if anything was required to be done in connection therewith.[2] On the same day the House passed a resolve authorizing the committees of correspondence having estates of refugees in their possession, to allow for the support of the families so much of the improvement of the estates as, combined with the industry

[1] Province Laws, v. 710; Massachusetts Archives, ccix. 107. The resolve of 19 April, as it is generally cited, is the one that was concurred in by the Council April twenty-third.

[2] Province Laws, v. 711; House Journal, p. 127.

of the families, would provide for their comfortable support.[1] The selectmen of the towns, or the overseers of the poor, were by the terms of this resolve "empowered to bind out the children of such Tories in like manner as they are by law empowered to bind out the poor of their towns." The committees of correspondence were also authorized to sell perishable property belonging to said estates. It scarcely needs to be stated that the Council did not agree to the proposition to permit the compulsory apprenticeship of all children of Tories, irrespective of their surroundings and regardless of the question whether the seizure of the property of their parents would of necessity result in their becoming public charges.

Up to this point there had been no general authority conferred to sell property, and no appropriation by the Colony of the seized effects. Perishable property had been ordered to be sold, and from time to time specific instructions and special authority had been given in particular cases.

The Assembly of the Colony was in session at the date of the Declaration of Independence, but was prorogued on the thirteenth of July, 1776, prior to the receipt of official information of the action of the Continental Congress. When the legislators met in August of that year, they represented one of the United States of America, and the revolt which had been in progress had become an open war against England. This permitted, indeed, it may be said to have compelled, the placing upon the statute books, in permanent form, a definite policy with regard to the estates of refugees, in place of the various conflicting resolves under which seizures had been made. The matter was taken up in October,[2] but the act to prevent the waste of the estates of refugees, which was the result of these deliberations, was not finally passed until April, 1777. Meantime, the only change in the relations to the subject of those holding property of refugees under authority of the various resolves, would seem to have been effected by a resolve passed 31 January, 1777, ordering the committee for securing the estates of the absconding enemies to the rights of America to turn over to the

[1] Province Laws, v. 711; Court Records, xxxv. 77; printed Resolves, chap. cix.

[2] See supplementary note to chap. 38 of the Acts of 1776–77, Province Laws, v. 725.

Board of War such effects in their hands as might be available for this and the other United States.[1]

The "Act to prevent the waste, destruction and embezzlement of the goods or estates of such persons who have left the same, and fled to our enemies for protection; and also for the payment of their just debts, out of their estates" was passed in April.[2] This act authorized the judges of probate to appoint agents to take possession of the property of persons who had voluntarily fled to the enemy leaving behind them estates amounting in value to twenty pounds or upwards. Judges of probate were authorized to allow the wife and family of the refugees, bedding and household furniture, and could also assign to the wife the use and improvement of one third of the real estate during the absence of the husband.

The agent was to sell the personal property and pay the debts of the refugee. If there was not enough personal property to meet the debts, then recourse could be had to the real estate. Except for the purpose of paying debts, the agent had no power to sell real estate. Where the estates were not insolvent, the judge of probate could make allowance out of the rents and profits of the estate for the support of the absentee's family and servants. The agent was to pay over to the Treasurer of the State any balance in his hands after paying the debts of the estate and thereafter was to account to the judge of probate by whom he was appointed. Thus matters stood until the passage of the Confiscation Act. The flight of the refugee was treated as being equivalent to his having committed suicide. The agent appointed to take possession of his estate was given authority to manage the same "in as full and ample a manner as though the absent person was naturally dead and the said agent was appointed administrator of his or her estate." It was evidently the purpose of the act to give the agent control over the management of the real estate, but the extent of that control and its limits are only to be inferred. The agent is put in possession and can receive the rents from leases made by committees under authority of the court. He can make repairs. Out of the rents and profits in his hands he can pay such sums as the court allows for the support of the family. The committees having

[1] Province Laws, v. 711; printed Resolves, chap. cxxxi.; Massachusetts Archives, ccxii. 213.

[2] Province Laws, v. 629 *et seq.*

charge of real estate were only authorized to lease for one year. Perhaps it is a fair inference that the agents' power in this respect was similarly restricted. On the nineteenth of September, 1778, collectors of taxes were stayed from proceeding against the unimproved estates of absentees.[1] On the sixteenth of October, 1778, the power of judges of probate in the appointment of agents was extended. They were directed to exercise this power as soon as it should appear to them, by information or otherwise, that any persons had fled to the enemy for protection. The estates of refugees who since leaving home had died were not to be exempt, and commissioners were to be appointed to examine claims against all estates whether insolvent or not.[2] The same act was further amended in February, 1779, by the addition of a clause which empowered judges of probate to treat absentee executors and administrators as if dead. Appointments could be made of persons to fulfil the trusts which the absentees were unable to perform.[3]

Pursuant to the recommendation of Congress, the subject of confiscation was taken up by the General Court in January, 1778. On the twenty-third of February[4] a Confiscation Act was reported and a list of names of refugees was ordered to be prepared. This was under consideration for a protracted period, the details concerning which are given in the note to Chapter 48 of the Acts of 1778–79.[5] The passage on the sixteenth of October, 1778, of the Act to prevent the return to this State of certain persons therein named and others who have left this State or either of the United States and joined the enemies thereof, would seem to have been the immediate outcome of this discussion.[6] The State, at this time, had possession of practically all the property of the refugees. The personal property had, under authority, been disposed of. The real estate was still under the management of the agents who had been put in charge of it. Difficulties of various sorts turned up, most of which were met by legislation, general in character, but calculated to meet the emergency which called it into being. The spring of 1779 was fertile with such legislation. On the nineteenth of February, 1779, agents who had not made returns of inventories were ordered to do so immediately. They were also required to

[1] Printed Resolves, September Session, 1778, Resolve xi. p. 38.
[2] Province Laws, v. 910, 911. [4] *Ibid.* v. 1053. [6] *Ibid.* v. 912.
[3] *Ibid.* v. 931. [5] *Ibid.* v. 1052 *et seq.*

make up their accounts with all possible expedition, and after deducting such allowance to the wife, widow, or family, as the judge of probate might have approved, to pay over the balance to the Treasurer of the State.[1] The same day, another resolve was passed instructing agents to lease for circulating currency the real estate on one year leases.[2] The property of subjects of Great Britain who had not resided in this State was, by resolves of date of 20 February and 19 April, ordered to be turned over to the agents.[3] A special resolve was passed 1 May, providing for the ejectment of persons improperly holding possession of the property of refugees,[4] and resolves were passed 1 May and 3 May to meet the cases arising from delinquent agents.[5]

This review of special legislation of a general character at this period has carried us beyond the date of the passage of the two Confiscation Acts in which all of this legislation may be said to have culminated. On the thirtieth of April, 1779, two bills were passed, the one directed against the estates of Mandamus Councillors, Commissioners of Customs and certain other Royal office-holders, the other against the estates of refugees in general. In the former, the estates of the named persons were confiscated without further hearing. In the general Confiscation Act there was detailed provision for the mode of trial under which the estates would be confiscated. Personal service, or the ordinary substitutes, lay at the base of the action and a jury was required even in case of default. In both acts provision was made for setting aside dower for the wife or widow of the refugee, out of the estate.

In the proceedings under the Confiscation Act the result was simply that possession in behalf of the Commonwealth was given to an agent appointed for that purpose. No provision was made in the act by means of which the agent could pay debts. On the nineteenth of June, 1780, a committee was appointed by resolve who were authorized to borrow money for the use of the State, and as security for the loans they could put lenders in possession of the real property of absentees.[6] On the twenty-ninth of November, 1780, a resolve was passed for selling

[1] Province Laws, v. 1000.
[2] *Ibid.* v. 1000.
[3] *Ibid.* v. 1000, 1001.
[4] *Ibid.* v. 1002.
[5] *Ibid.* v. 1002.
[6] Resolves of Massachusetts, 1780, Resolve lxxxiii.

at public auction the estates and effects of absentees. The proceeds were to be paid into the treasury.[1] On the fourth of December, 1780, the Confiscation Act was amended.[2] The requirement of a jury where there was no contest was dispensed with, and instead of the notification to the absentees set forth in the act as a basis for the proceedings in court, notice by publication in newspapers was substituted. The personal service required in the original act on absentees who were by law prohibited from entering Massachusetts was of course a legal farce and an absurd proposition, nor was it much improved by having a notice left at the last and usual abode of the absentee, nor by posting it on the premises. Such absentees had, under the circumstances, no recognized interest in the proceedings and their families had no claim except through them. Only those were legally interested who might claim through some conveyance or contract which the courts would recognize as valid, and as these might not be known, publication was clearly the best way to reach them. Some of the confiscation suits were, at the time of the passage of this act, ripe for judgment. Taking advantage of the provision which dispensed with the jury requirement, some of the courts at once proceeded to enter up judgment in the cases pending before them. It was soon discovered that the act which had made it possible to get along without a jury had also upset the service of the writs upon which these cases were based. To remedy this, a special act was passed 18 January, 1781, legalizing the proceedings in these suits.[3]

The committees and agents were instructed, 2 February, 1781, not to lease property of absentees,[4] but on the third of March, following, they were authorized to lease for one year if they thought it was for the interest of the government.[5]

[1] Laws and Resolves of Massachusetts, 1780–81, chap. 95, p. 183.

[2] *Ibid.* 1780–81. An act in addition to and for the alteration of some of the provisions of an act, *etc.*, chap. 48, p. 113. I have used for my citations of subsequent legislation the reprints of the laws now in progress, the title given being the binder's title. This is sometimes misleading since the years which govern it are session years and the fall sessions overlapped the calendar year.

[3] *Ibid.* 1780–81, chap. 49, p. 114.

[4] *Ibid.* 1780–81, chap. 65, p. 254; Resolves of Massachusetts, 1781, Resolve lxv. p. 79.

[5] Laws and Resolves of Massachusetts, 1780–81, chap. 196, p. 335; Resolves of Massachusetts, 1781, Resolve cxcvi. p. 129.

The act to provide for the payment of the debts due from conspirators, etc., was amended 1 May, 1781. Committees appointed to sell the estates of absentees were authorized to sell at private sale to persons who had advanced money to the Commonwealth under the resolve of 19 June, 1780, the estates then turned over to them as security, provided the creditor of the Commonwealth made application for that purpose and was willing to take the estate at the appraised value designated by a committee appointed for that purpose.[1] The action taken in this last resolve is peculiar and not altogether consistent with what had just taken place, for on the second of March, the Legislature had formally passed an act to provide for the payment of debts due from conspirators and absentees and for the recovery of debts due to them in which they had appointed committees to sell the estates and pay the debts.[2] The claims were to be examined by the committees formerly appointed by the judges of probate. The sales were to be conducted as in the case of intestates. The committees for the several counties were named in the act and were authorized to sell the estates, pay the debts and pay over what was left to the Treasurer of the State. Money paid to the Treasurer could be reached by warrants issued on certificates of probate judges.

On the fifteenth of May, knowledge having been acquired that there were persons in possession of real estate of absentees, who did not pay rent and others having personal property illegally in possession, a resolve was passed directing the committees appointed to sell confiscated estates in the several counties, to make inquiries on these points and report thereon.[3] The same day an act was passed directing commissioners to reject all claims originating from conspirators or absentees and extending the time for proving claims against the estates and, in order to expedite payments, authorizing payment in full to creditors who would give an indemnity bond to refund *pro rata* in case the proceeds of sales should be inadequate to meet all claims.[4]

The committees of the several counties within the Commonwealth, appointed to dispose of confiscated estates, were, on the

[1] Laws and Resolves of Massachusetts, 1780–81, chap. 52, p. 122.
[2] *Ibid.* 1780–81, chap. 50, pp. 115 *et seq.*
[3] *Ibid.* 1780–81, chap. 176, p. 460.
[4] *Ibid.* 1780–81, chap. 53, pp. 123–125.

eleventh of February, 1782, instructed to receive in payments the securities given to officers and soldiers.[1] On the seventh of March, 1782, the committees for the sale of estates of absentees were authorized to lease the said estates for the ensuing year.[2]

On the eighth of March, 1782, in order that persons might be protected who had been prevented by good reasons from prosecuting their claims against the estates of absentees, a resolve was passed, authorizing judges of probate to renew for three months the commissions of those previously appointed to examine claims. The commissioners thus re-appointed, or others in their places, were instructed to re-examine claims.[3]

On the fifteenth day of June, 1782, an amendment to the act to provide for the payment of debts due from conspirators and absentees, etc., was passed, the purpose of which was to relieve the Commonwealth from the embarrassment caused by the exemption from the operation of the original act of estates put into the hands of persons who had advanced money under the resolve of 19 June, 1780. Committees were authorized to sell to lessees at an appraised value, or to others at public or private sale, if the lessees refused to take the property on those terms. In cases where the proceeds of sales were inadequate to pay debts, committees were empowered to divide such proceeds among creditors *pro rata*, taking bonds for the repayment of the creditors' ratable proportion.[4] If it be borne in mind that the agents had been called upon to remit to the State Treasurer, the character of the task of determining the solvency of the estates thus imposed upon the committees will be better appreciated.

Various resolves were passed in the summer of 1782, the purpose of which was to stimulate the settlement of estates of absentees.

It would seem that the complicated state of affairs brought about by the great variety of legislation bearing upon the settlement of the estates of absentees brought with it the penalty of suits against agents and committees, in such numbers that the Legislature was obliged to come to their defence. This was done by the passage,

[1] Laws and Resolves of Massachusetts, 1780–81, chap. 403, p. 846.
[2] *Ibid.* 1780–81, chap. 524, p. 925.
[3] *Ibid.* 1780–81, chap. 514, pp. 919–921.
[4] *Ibid.* 1782–83, chap. 69, pp. 177–179.

13 March, 1783, of an act empowering agents and members of committees in certain cases to plead the general issue and give the acts and resolves of the General Court and any special matter in evidence.[1]

At the time of the passage of this last act, it was known in this country that George the Third had announced at the opening of Parliament that a preliminary treaty of peace had been signed between Great Britain and the United States. The provisional treaty, concluded in November, 1782, had at last become operative through the signing, in January, 1783, of the preliminary treaty of peace between Great Britain and France and Spain. The fifth article in the provisional treaty provided that Congress should recommend to the several States the revision of the laws against refugees, "so as to render the said laws or acts perfectly consistent, not only with justice and equity, but with that spirit of conciliation which, on the return of the blessings of peace, should universally prevail." The first step taken by the legislature of Massachusetts in this "spirit of conciliation" was the passage, on the second of July, 1783, of an act "to carry into execution an act made in the year one thousand seven hundred and seventy-eight, entitled 'an act to prevent the return of certain persons therein named,'" etc. It was prescribed in the "act to prevent the return" that the Board of War should deport absentees who should venture to return to the State. That body, it was stated, was now discontinued. It was therefore provided that cases arising for consideration under that act should be examined by two justices of the peace, whose decision was to be certified to the Governor. It was made the duty of the Governor to cause violators of the law to be deported, and it was provided that a second return of the refugees was to be met with the penalty prescribed in the original act, which was death. Replevin suits could not be maintained in behalf of persons arrested under this act. Service of writs in such suits was declared to be void, and the officer making the service not only became subject to a fine of £100, but was by the very act of making the service incapacitated from making further legal service of papers. This act was to remain in force until the recommendation of Congress should be

[1] Laws and Resolves of Massachusetts, 1782–83, chap. 70, p. 179

laid before the Court and a final determination thereon should be had.[1]

On the eighteenth of March, 1783, committees were authorized to lease for one year.[2] On the fifth of June, the committee intrusted with the settlement of the accounts of committees on absentees' estates was instructed to require final settlements and to have balances paid over.[3]

On the fourth of October, a resolve was passed instructing committees appointed to make sale of the estates of absentees "to surcease the sale of the said estates until the further order of the General Court."[4]

The definitive treaty of peace, executed at Paris in September, 1783, was ratified and confirmed by Congress, 14 January, 1784, and a broadside was thereupon issued, calling upon all good citizens and all bodies of magistracy, — legislative, executive and judicial, — to observe its terms and carry into effect its definitive articles. The fifth and sixth articles of the treaty were similar to those bearing the same numbers in the provisional treaty. The former of these articles has been already alluded to. The latter provided that there should be no more confiscations of the property of Loyalists and no more prosecutions by reason of the part taken by them in the war. What legislation follows was carried through with a full knowledge of the character of the recommendations of Congress which were referred to as impending in the last paragraph of the act of July second.

The first step taken by the Legislature after it was furnished with knowledge of these recommendations was to put forth efforts to close up the estates of absentees. On the sixteenth of March, 1784, registers of probate were ordered to return to the Secretary's office before June tenth, all accounts rendered by agents of such estates. If any agent had failed to render his accounts, registers were instructed to bring suit on his bond. Committees having absentees' estates in their hands were ordered to make return to the Secretary. He in turn was to report to the Attorney-General if any committees were delinquent in this respect, and it was made

[1] Laws and Resolves of Massachusetts, 1782–83, p. 499.
[2] *Ibid.* 1782–83, chap. 175, p. 458.
[3] *Ibid.* 1782–83, chap. 10, p. 680.
[4] *Ibid.* 1782–83, chap. 14, p. 783.

the duty of the Attorney-General to prosecute such delinquents. It was at the same time provided that there should be no further sale of estates of absentees, either as a whole or in part, until the further order of the General Court.[1]

The first act passed in which the obligations of the treaty were distinctly recognized was the "act for repealing two laws of this State, and for asserting the right of this free and sovereign Commonwealth, to expel such aliens as may be dangerous to the peace and good order of government." This act became a law 24 March, 1784.[2] The preamble asserted that it was the undoubted right of the State to expel such aliens as were possessed of dispositions incompatible with the safety or sovereignty of the State. It is quite possible that in the more liberal spirit of to-day we should be inclined to assert our abstract right to expel from the country those whose presence threatened the safety of the State; but our sympathy with the alleged principle of the act would probably stop at this point, for what was meant by it was more specifically defined in the next sentence, in which absentees were pronounced to be aliens. Alas for the hoped-for spirit of conciliation! All those who had borne arms against the State or lent money to Great Britain, and all those who were named in the Confiscation Act were designated as aliens and as such ought to be excluded from the State. The admission even of others of this class was declared to be full of danger to the State, but under the circumstances it was thought that the present laws for their exclusion were not calculated to produce peace and tranquillity. Therefore, the act to prevent the return of certain persons therein named, etc., and the act to carry that act into execution, — the former of the year 1779, the latter of 1783, — were both repealed. This of course threw the bars down and let in everybody, but to make it clear that the spirit of conciliation in which the Legislature complied with the recommendation of Congress did not go far enough to permit the more odious of the Loyalists to stay in the Commonwealth after they had got there, it was then provided that absentees named in the Confiscation Act or who had borne arms against the country in the late war, who should return to the State with intent to reside therein, should be reported by justices of the

[1] Laws and Resolves of Massachusetts, 1782–83, chap. 132, p. 873.

[2] *Ibid.* 1782–83, p. 661.

peace to the Governor, and if they did not immediately depart from the State when thereto ordered by the Governor, they were to be committed to gaol. Absentees of other descriptions than the above were required to take out licenses from the Governor, which licenses should only run from the end of one General Court to the end of the next.

The sixth article of the treaty, which provides that there should be no more confiscations, was recognized, and it was provided that land held by claimants 19 April, 1775, which had not been confiscated should be restored unless they were pledged for the payment of debts due from absentees. From the benefit of this provision, however, those named in the Confiscation Act were excluded, or rather it would be nearer the fact to say, that an attempt was made to exclude them. This was done by referring to the Confiscation Act as "the act of 1778," an error of date which compelled subsequent legislation by way of correction.

On the second of July, 1784, it was ordered that confiscated lands should be sold by auction for public securities. From this order, estates which were insolvent were excepted.[1] It was evident that the titles to the confiscated estates acquired by the purchasers at the auction sales were assailed, for on the twenty-eighth of October, 1784, a resolve was passed directing the Attorney-General to appear and defend the titles of confiscated estates.[2]

It has been mentioned that corrective legislation was needed to cure the hasty and erroneous description of the Confiscation Act in the act just above described. This was accomplished 10 November, 1784, by an act in addition to the former act in which it was also provided that where real estate of absentees had been mortgaged by the government, the equity of redemption should be regarded as having been confiscated. In the case of property leased by the government, the rentals were deemed to have been confiscated, but the claimant could demand the property at the termination of the lease. It was also provided in the same act, that all acts of agents or committees in connection with the real estate of absentees, or of real British subjects, where the real estates had not been confiscated, if such acts were done according

[1] Laws and Resolves of Massachusetts, 1784–85, chap. 58, p. 234.

[2] *Ibid.* 1784–85, chap. 25, p. 272.

to law, should be good and valid. Personal estates of absentees, sold or used, were to be deemed confiscated. No action was to lie against an agent. If sued, he might plead the general issue and give this act in evidence.[1] The same day, a letter was addressed to the delegates to Congress in which they were instructed to ascertain whether it would consist with the treaty for the Legislature to debar British subjects and absentees from recovering interest during the war? What did the expression "*bona-fide* debt," used in the treaty, mean? Ought it to include interest during the war? These questions arose under the fourth article of the treaty, which provided that no lawful impediment should be imposed to the recovery of debts theretofore contracted. Pending an answer which should furnish the congressional interpretation of the treaty, actions for interest were suspended until the next session of the legislature.[2] When that event took place the reply of Congress to these questions was still in abeyance. A resolve was therefore passed on the seventh of February, 1785, continuing the resolve of November tenth in force until the further order of the General Court.[3] Whether that order has ever been made can be determined by search of the records, if any person should deem it worth his while.

On behalf of Mr. WORTHINGTON C. FORD, Mr. HENRY H. EDES communicated an unpublished letter written by Christopher Holder 1 September, 1659, to the Governor, magistrates, and people of Massachusetts, taking them to task for their persecution of the Quakers. The letter follows:

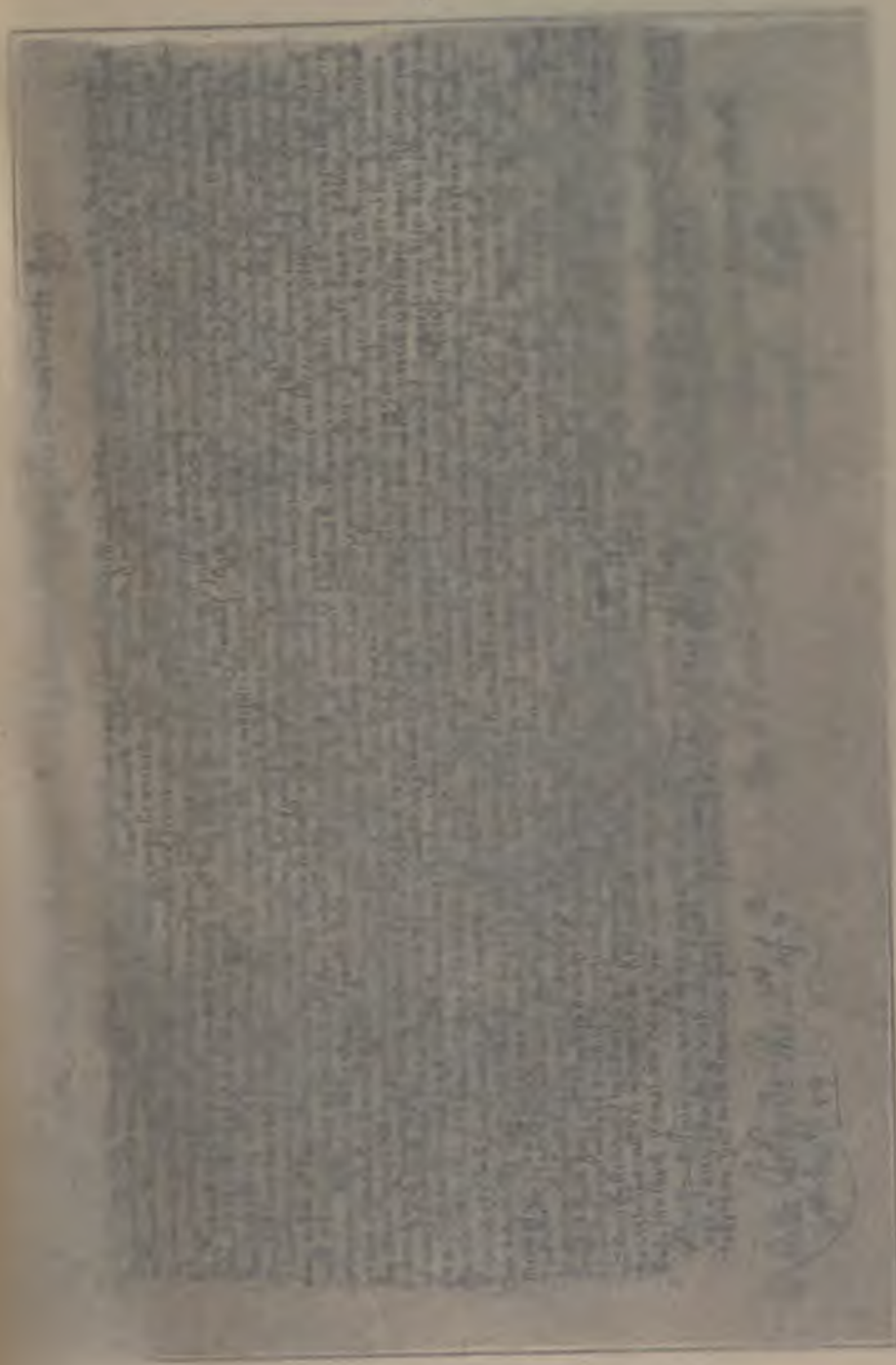
A . Warninge . From . The . Spirit . of ye Lord . To ye Gouerno^r & Magistrates: & People of The Masathusets Bay: —

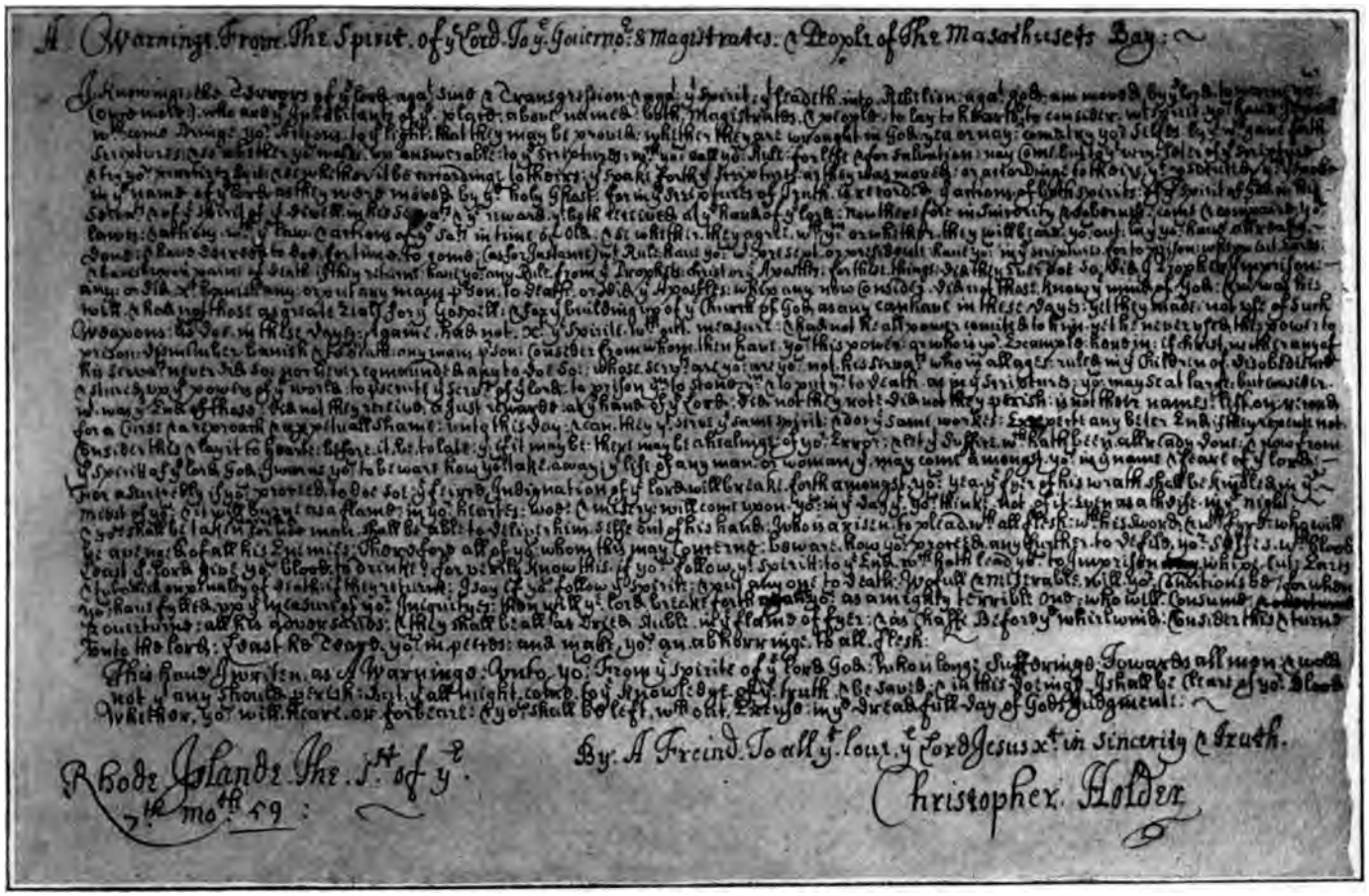
I Knowinge: the Terrors of ye lord: aga^t sine & Transgression: & aga^t y^t Spirit: y^t leadeth . into . Rebelion: aga^t god: am moved by ye lord . to warne yo^u (once more:) . who are ye Inhabitants of ye place . above named: both . Magistrates . & people: to lay to hearte . & to consider . w^t spirit . yo^u haue Joyned w^{th}: come Bringe . yor Actions . to y^e light: that they may be proved:

[1] Laws and Resolves of Massachusetts, 1784–85, chap. 31 (1784), p. 105.

[2] *Ibid.* 1784–85, pp. 300–301.

[3] *Ibid.* 1784–85, p. 338.





A Warninge From The Spirit of ye Lord To ye Gouiernor & Magistrates & People of The Masathusets Bay:

Rhode Islande The 1st of ye 7th mo^th 59:

By A Freind To all ye loue ye Lord Jesus xt in Sincerity & Truth.

Christopher Holder

Engraved for The Colonial Society of Massachusetts from the original in the Chamberlain Collection

whether they are wrought in God . yea or nay : come . try yor Selfes : by y^{t} wch gave forth . Scriptures : & se whether yo^{u} walke . up answerable : to ye Scriptures : wch yo^{u} call yor Rule : for life & for salvation : nay Come . but to ye very . leter of ye Scripture & try yor practices by it : & se whether . it be accordinge to theirs : y^{t} spake forth ye Scripture : as they was moved : or accordinge to theirs . y^{t} psecuted y^{m} y^{t} spoke in ye name of ye lord . as they were moved by ye holy Ghost : for in ye Scriptures of Truth . is recorded ye actions . of both spirits : of ye spirit of God in his serva^{ts} & of ye spirit of ye divell . in his serva^{ts} & ye reward . y^{t} both received at ye hand of ye lord : Now therefore in sincerity & soberness : come & compaire yor lawes & actions . wth ye law . & actions of ye sa^{ts} in time of old . & se whether . they agree . wth y^{m} or whether . they will beare . yo^{u} out : in y^{t} yo^{u} haue allready . — done : & have decreed to doe . for time . to come : (as for Instance) w^{t} Rule haue yo^{u} w^{t} presept . or presidente : haue yo^{u} in ye Scriptures . for to prison : whipp cut . Eares : & banish upon paine of death ; if they returne haue yo^{u} any Rule . from ye Prophets : christ . or ye Apostles : for these . things : did they ever doe so : Did ye Prophets . Imprison : — any : or did X^{t} banish any : or put any mans p^{r}son . to death : or Did ye Apostles : whip any : now Consider . did not those . know ye mind of God : & w^{t} was his will . & had not those as greate zeale for ye Gospell : & for ye building up of ye Church of God . as any can have in these Days : yet they made . not use of such Weapons : as yo^{u} doe . in these Days : Againe . had not . X^{t} ye Spirite . wthout measure : & had not he all power comited to him . yet he never used . this power to prison : dismember . banish & put to death : any mans p^{r}son : Consider from whom . then have . yo^{u} this power : or who is yor Example : herein : if christ . neither any of his serva^{ts} never did so : nor never comaunded any to doe soe : whose . serv^{ts} are yo^{u} are yo^{u} not . his serva^{ts} who in all ages : ruled in ye Children of . Disobedience & stirred up ye powers of ye world : to p^{r}secute ye serv^{ts} of ye lord : to prison y^{m} to stone . y^{m} & to put y^{m} to death . as in ye Scriptures : yo^{u} may se at large : but consider w^{t} was ye end of those : did not they receive . a Just rewarde : at ye hand of ye Lord : did not they rote did not they perish : is not their names : left . on : record for a Curse & a reproach & a ppetuall shame : unto this day : & can . they y^{t} serve ye same spirit : & doe ye same workes : Expecte any beter End if they repente not. Consider this & lay it to hearte : before . it . be . to late : y^{t} if it may be : there may

be a healinge of yor Error: & let y^t Suffice . wch hath been . allready done: & now from ye spiritt of ye lord God; I warne yo^u to beware how yo^u take . away; ye life of any man . or woman y^t may come amongst . yo^u in ye name & feare of ye lord: —For asureeddly if yo^u proceed . to doe soe: ye feirce Indignation of ye lord will breake forth amongst . yo^u Yea . ye fyer of his wrath shall be kindled in ye midst of yo^u & it will burn as a flame: in yor heartes: woe: & misery: will come upon . yo^u in ye Day y^t yo^u thinke . not . of it: even as a theife . in ye night. — & yo^u shall be snairid & taken for noe man . shall be able to deliver him . selfe out of his hand: who is arisen . to plead . wth all flesh: wth his sword . & wth fyre . who will be avenged of all his Enemies: Therefore all of yo^u whom this may Concerne: beware . how yo^u proceed . any further . to defile . yor Selfes. wth blood Least ye lord give yo^u blood . to drinke: for verily know this . if yo^u follow y^t spiritt: to ye End . wch hath lead yo^u to Imprison whipe . cut . Eares & to banish on penalty of death: if they returne: I say if yo^u follow y^t spirite: & put any one to death: Wofull & miserable . will . yor Conditions be: for when yo^u haue fylled . up ye measure of yor Iniquity . &: then will ye lord . breake forth again^st . yo^u as a mighty terrible One: who will . Consume & ouerturne: all his adversaries: & they shall be all as dried stuble . in ye flame of fyer: & as Chaffe Before ye whirlwind: Consider this & turne Unto the lord: Least he Teare . yo^u in . peeces: and make yo^u an abhorringe . to all . flesh: —

This haue I writen . as A Warninge: Unto yo^u From ye spirite of ye lord God: who is longe Sufferinge; Towards all men: & wold not y^t any should perish: But . y^t all might . come . to ye knowledge . of ye truth . & be saved; & in this doeinge . I shall be cleare of yor Blood Whether . yo^u will . heare . or forbeare: & yo^u shall be left . w^thout . Excuse: in ye dreadfull day of Gods Judgmente: —

By: A Freind . To all y^t loue . ye Lord Jesus X^t in sincerity & Truth.

CHRISTOPHER HOLDER

RHODE . ISLANDE . The 1st of y^e.
7th mo^th 59:

Mr. HENRY W. CUNNINGHAM gave a sketch of Holder's life and career, and detailed the many persecutions and

sufferings which he and others underwent for trying to preach the Quaker faith in Massachusetts.[1]

Mr. EDES called attention to Palfrey's error in referring to Christopher Holder as Christopher Holden.[2]

Mr. JOHN NOBLE made the following communication:

In the printed report of the last meeting of the Society was a statement that Jonathan Remington, mentioned in a communication of mine,[3] was Clerk of Courts. I challenged the statement and asked for its authority, which proved to be his signature as it appeared on a Court process printed in a former communication.[4] This rather estopped reply, and yet did not lay the ghost of the doubt. A question at once came up. The process was executed "By the Court" — the regular form of an order of Court; but the title "Clericus" was peculiar, as in the County Court the proper designation was "Recorder" — an office held for so many years by Thomas Danforth. Another difficulty was presented by the fact that Remington's name appeared so many times as upon the jury in the Court of Assistants — a seeming incompatibility, and frequently as the foreman, and again as the "Agent" of the Town of Cambridge in writs between it and neighboring towns. The difficulties, however, are resolved and the whole matter cleared up by extracts from the records of the County Court of Middlesex, given me through the courtesy of Mr. Theodore C. Hurd, the present Clerk of Courts in Middlesex:

At a coun Court held at Cambr. Aprill 3 1677 — on the Bench —
SIMON BRADSTREET Esq
THOMAS DANFORTH R

At the request of Mr Danforth — Lt Jonathan Remington is allowed to serve as his clarke in the Courts of this Coun.

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[1] For notices of Holder, see Austin, Genealogical Dictionary of Rhode Island, p. 102; Austin, 160 Allied Families, pp. 2, 9, 31, 58; Massachusetts Colony Records, iv. (i.) 391; Rhode Island Colonial Records, ii. 482, 537; 1 Proceedings Massachusetts Historical Society, xviii. 394; Besse, Sufferings of the Quakers, ii. 177; Bishop, New England Judged (1885), pp. 3, 9, 37, 45, 75, 76, 98, 113, 123, 137; C. F. Holder, The Holders of Holderness (1902), *passim*.

[2] History of New England, ii. 467, 468.

[3] See pp. 26–28, above.

[4] Publications, iii. 450.

Mr. Hurd further says:

> The first and only record in which I find Remington's name is 1 April, 1684, when he signs a record "Jonathan Remington Clericus." For many years Danforth sat on the bench as Lieutenant-Governor, and at the same time acted as Recorder.

The position of Lieutenant Remington is thus clearly explained, and the peculiarity of his designation of office accounted for. It is a slight matter, perhaps, but there is a certain interest in seeing just how our forefathers did things and how observant they were of form and accuracy.

The Rev. JAMES H. ROPES asked for information as to the origin of the old saying, "Where Sunday stops and Rhode Island begins."

Mr. HENRY W. CUNNINGHAM spoke as follows:

My eye was caught by a paragraph which appeared in the Boston Herald of January ninth, as follows:

> The Harvard library has placed a collection of war sketches, made by Frank Vizetelly, artist and correspondent of the Illustrated London News during the civil war, in the Harvard Union. The drawings are the gift of Col. John Glas Sandeman of England.

This at once called to mind the paper on the Sandemanians read by Mr. Edes in March, 1899,[1] and I queried whether Colonel Sandeman was a descendant of either John Glas or Robert Sandeman. He apparently belongs to the same family, which has given England several distinguished officers in the army and in the civil service and several eminent merchants and bankers. Colonel Sandeman served in the Crimean War and was present at the battles of Balaklava, Inkerman, and Tchernaya, and at the siege and fall of Sebastopol.[2] Our associate Mr. James A. Noyes informs me that Vizetelly's pictures, which were drawn on the spot, came into the possession of Colonel Sandeman, who mentioned them to Mr. Charlemagne Tower. The latter sug-

[1] Publications, vi. 109–123.

[2] Hart's Army List (1900), p. 130.

gested that Harvard would like them, and so they were sent to the College Library.

Mr. JOHN NOBLE, Jr., of Cambridge was elected a Resident Member, and the Rev. WILLISTON WALKER, D.D., of New Haven, Connecticut, a Corresponding Member.

FEBRUARY MEETING, 1903.

A STATED MEETING of the Society was held at No. 25 Beacon Street, Boston, on Thursday, 26 February, 1903, at three o'clock in the afternoon. In the unavoidable absence of the PRESIDENT, Mr. ANDREW MCFARLAND DAVIS was called to the chair.

The Records of the last Stated Meeting were read and approved.

The CORRESPONDING SECRETARY reported that letters had been received from Mr. JOHN NOBLE, Jr., of Cambridge accepting Resident Membership and from the Rev. Dr. WILLISTON WALKER of New Haven, Connecticut, accepting Corresponding Membership.

On behalf of Mr. DENISON R. SLADE, Mr. HENRY H. EDES communicated the following documents drawn from the papers of Richard Clarke, one of the consignees of the tea sent to Boston in November and December, 1773.

I.

RICHARD CLARKE[1] TO ISAAC WINSLOW CLARKE.

BOSTON, June 21st 1762

DEAR ISAAC

As you are now about entring on a new scene of Life, I judge it may be serviceable to you to give you some advice as to your future conduct, which I hope you will receive as proceeding from a tender concern for your Welfare. In the first place I must entreat you

[1] Richard Clarke, son of William and Hannah (Appleton) Clarke, was born in Boston 1 May, 1711, graduated at Harvard College in 1729, and died in London at the residence of his son-in-law Copley, the artist, 27 February, 1795

will begin this new part of life with devoting yourself to the service of the Great God, from whom you have received all that you have, & on whom you entirely depend, for all Happiness, both in this world, & through an endless Eternity — A Stedfast desire & endeavour to approve your self to Him by a sincere obedience to his laws, is the true and only foundation of Happiness; & if you cultivate the fear and love of God in your heart, you 'le have the best principle for your guidance through the various scenes of your comeing life, and you may depend with chearfulness on His gracious protection & blessing —

I esteem it a great favour that I have been able to get you into Mess^r^ Bethune's[1] Warehouse. I have no doubt of their behaving to you with Justice & kindness, & I have adventured to assure them of your making the returns of fidelity, diligence and submission to them, and I hope & depend on it, that you will make good every thing that I have said in your favour. I flatter my self that you have the principles of fidelity, diligence & submission in you, but perhaps it may not be amiss to give you my thoughts about some particulars in your conduct towards your Masters. I hope then that you will chearfully do whatever your Masters direct you to do, even the lowest offices, for I am sure they won't desire any thing unreasonable of you; fix it in your Mind, that They are the best judges what business to set you about & chearfully obey their orders without the least reluctance; the least sign of uneasiness with your Master's orders will be very displeasing to them, & very hurtful to your self — Diligence in the business you are engaged in will

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(Gentlemen's Magazine, lxv. 349; manuscript letter of H. Bromfield, Jr., dated London, 26 March, 1795). His mother married (2) Josiah Willard, long Secretary of the Province. See the Publications of this Society, v. 197 *note*, 198, 200 *note*, 202, 203, 205, 208 *note*, 209 *note*, 214 *note*, vi. 77 *note*, 128, 246; Boston Record Commissioners' Reports, xxiv. 74, xxviii. 135, xxx. 302.

[1] George Bethune was born in Boston 7 December, 1720, the son of George and Mary (Waters) Bethune, and was baptized at the Old South Church four days later. He graduated at Harvard College in 1740. On 13 October, 1754, he married, at Trinity Church, Mary Faneuil, daughter of Benjamin and Mary (Cutler) Faneuil, who died in Little Cambridge (now Brighton) aged 63 and was buried 2 November, 1797. She was sister of Benjamin Faneuil, Jr., one of the consignees of the tea. Mr. Bethune died in Little Cambridge, aged 64, and was buried 14 April, 1785. He was of a younger branch of the Bethunes of Balfour, a distinguished Scotch family. (Boston Record Commissioners' Reports, xxiv. 148, xxviii. 92, xxx. 12, 394; Records of the Old South Church; Registers of Trinity Church, Boston; Heraldic Journal, iv. 178.) See Sargent, Dealings with the Dead, ii. 495–549; Sabine, Biographical Sketches of Loyalists in the American Revolution, i. 227; Memorial History of Boston, ii. 555.

not be more pleasing to your Masters than it will be beneficial to yourself. I hope therefore you will continue to cultivate & strengthen a Habit of Industry, & if your Master's Business does not fill up your Time at the Warehouse, I would advise you to have some useful Books by you to employ yourself, & I think it will be of great service to you in your future life, not only to retain the knowledge you have already of the latin Tongue, but to endeavour to make a further proficiency therein. As to honesty & fidelity with respect to your Master's interest or property which they may entrust you with I trust I need say but little to guard you against the contrary vice. I thank God, that I have never found the least sign of dishonesty in any of my Children & I hope I never shall. I hope you 'le always have the utmost abhorrence of every appearance of this Vice, which is most offensive to an infinitely just God, who sees our most secret actions, & must ruin every young person with respect to this World who is guilty of it. I would only farther caution you with respect to the company you may convene with I am afraid you 'le meet with too many loose, idle young people in this Town. I hope you will not allow yourself in a familiarity with any of this character. The contagion of their bad example will, unless you shun such company, rob you of your innocency & be of the utmost bad consequence to you; & let not the loose talk or behaviour even of those that are advanced in Life, if you should see any thing of this sort, weaken the principles of Religion & Virtue which I hope you have imbibed. Make it your daily prayer to God, & use your own endeavour, to be kept against Temptation — I forgot to mention that it will be absolutely necessary to keep an inviolable secrecy with respect to your Master's concerns.

I hope, my dear Child, that you will not only give the aforegoing a careful reading, but endeavour to fix these few Rules for your conduct, in your Mind. Be assured that I have the tenderest concern for your happiness, & shall always be ready to do all in my power to promote it — I commit you to the guidance & blessing of God through time & eternity — I am

Your affectionate Father

RICHARD CLARKE

My Son Isaac Winslow Clarke [1]

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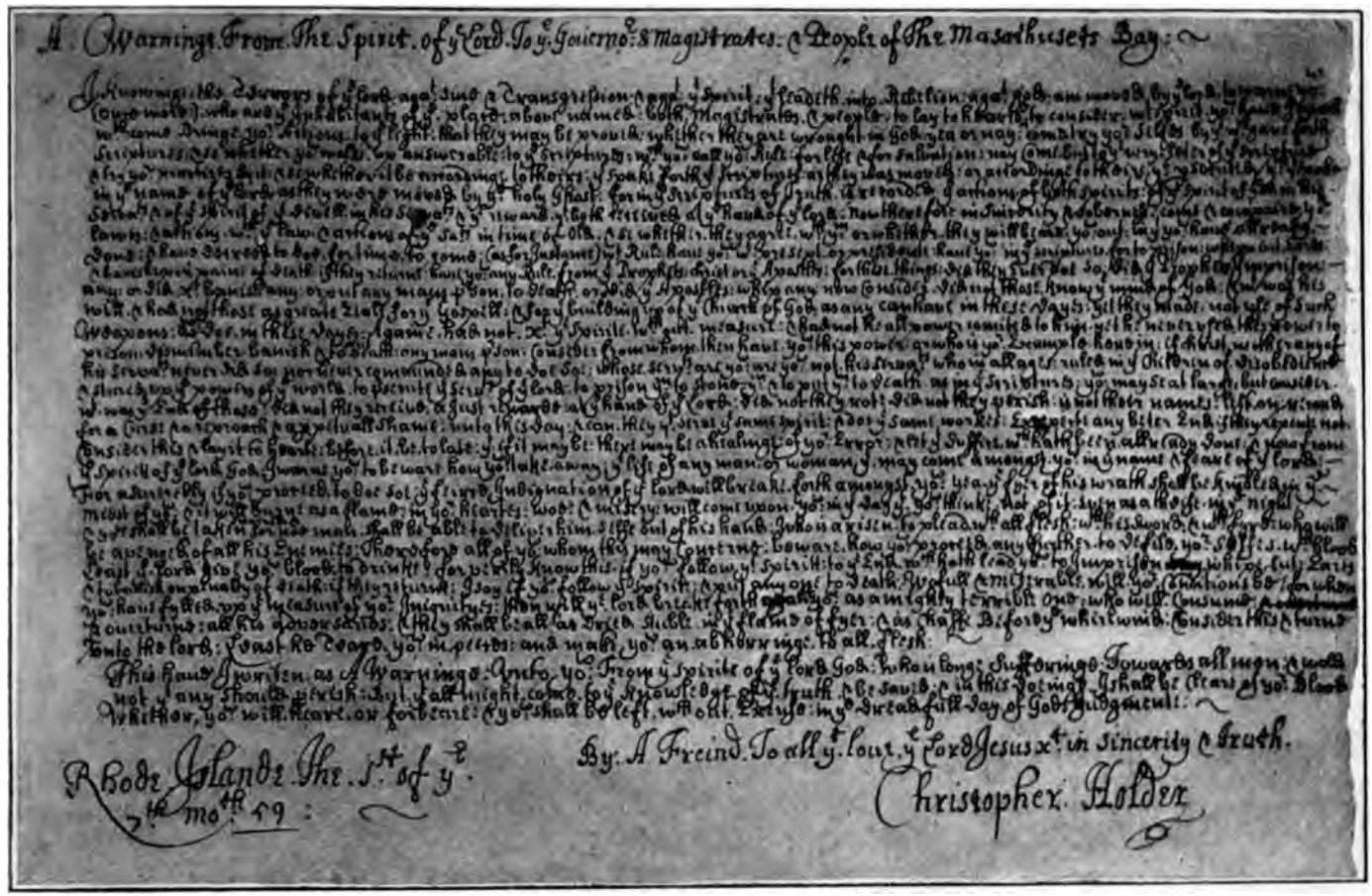
[1] Isaac Winslow Clarke was born in Boston 26 October, 1746, and died at sea in 1822. See the Publications of this Society, v. 197, 199, 200, 201, vi. 129.

II.

MEMORANDUM FROM ABRAHAM DUPUIS AND COMPANY CONCERNING TEA SOLD TO RICHARD CLARKE AND SONS.

Whereas the East India Company. have come to a Determination of Sending out Teas on their own Acco: to America & have fixd on the House of Messrs Richard Clarke & Sons of Boston N E as one of Three Houses there by them Deputed to Sell their Teas under a Security Given here to ye said East India Company for ye Due Performance of ye Contract on ye Part & Behalf of ye said Richard Clarke & Sons which Contract Recites that ye Teas shall be at ye Risq of ye Said East India Company from ye time of their Being Shipped to that of their being Sold & that after ye Sales of them the Security is to be bound that within two Months the Said Richard Clarke & Sons shall Remit ye Amount of ye same to ye East India Company in Bills at 90 Days The Company in Consideration thereof allowing to ye Said Richard Clarke & Sons a Commission of Six p Ct on the Sales of their Teas as also Two p Ct for ye Risq of ye Exchange making in ye whole Eight p Ct— And whereas The Bills so by them to be remitted for payment of the Teas are to be Remitted to Abram Dupuis & Co for their Negotiation as well as Payment of Bills Drawn on them by said Richard Clarke & Sons in favor of ye E: I: Company It is hereby Understood & agreed to that ye Said A D & Co shall make no Charge on said. R. C. & Sons neither for the Receiving ye Bills so by them Remitted nor for Payment of such Bills Drawn on them in favor of ye Company

And whereas ye Said A D & Co have bound themselves to ye Said East India Company for ye Just & due Performance of all ye above on ye Part & Behalf of the said Richard Clarke & Sons It is hereby Agreed between the said R. Clarke & Sons & ye said A Dupuis & Co that for & in Consideration of Such Security &c. for this first Parcell of One Hundred Chests so Consignd by the East India Company to ye Said Richard Clarke & Sons that ye said A Dupuis & Co shall have & Receive as their Proportion of ye Allowance so made to them by ye E: I: Company Only One Third Part as also One Third Part of whatever Further Benefit may Accrue to ye said R Clarke & Sons either in Exchange or Damages of any Protested Bills that may happen to be protested thro' ye Means of this Undertaking or any other Emolument Attending ye Same — But in Case ye E: I: Company should Continue to make any further Consignments to ye Said R Clarke & Sons ye Said A Dupuis & Co are to have One half Proportion of all ye Advantages as



A Warning From The Spirit of y Lord To y Governo & Magistrates & People of The Massathusets Bay:

Engraved for The Colonial Society of Massachusetts
from the original in the Chamberlain Collection

above in Lieu of One Third —— & that as in this Case ye Security will in Coarse become so much ye larger on ye part of A D & Co ye said R Clarke & Sons are to Send over Sufficient Securities as a Counter Ballance to ye Securities so Given by A D & Co to the E: I: Company

ABRA^M^ DUPUIS & Co

NB This last part respecting ye further Division of the Allowance from ye Company &c not to be Valid till Confirmd by Messrs Richard Clarke & Sons[1]

III.

WILLIAM BROWNE TO RICHARD CLARKE.

S^r^

Please to send me 2/4^lb^ Green Tea and 1^lb^ Souchon by the Bearer hereof and I 'll send or call and pay you for it the first Oppertunity

I am

Y^r^ h^ble^ Servt

Wm BROWNE

SALEM Nov. 8. 1778

Mr BARTLETT

[*Addressed*]

To

RICH^D^ CLARK Esq.

In

Boston

[*Filed*]

SALEM Nov 8th 1778

Coll^r^ Wm Browne's

IV.

PETITION TO THE GOVERNOR AND COUNCIL.[2]

May it please your Excellency & this Honble board, we hope that on a consideration of the great injuries which we have received and the

[1] A long letter from Richard Clarke and Sons to Abraham Dupuis, written in November, 1773, will be found in F. S. Drake's Tea Leaves (1884), pp. 279–291. See also 1 Proceedings of the Massachusetts Historical Society, xiii. 151–216.

[2] This document is neither dated nor signed, but it is unquestionably the

difficulties we are now under merely as we suppose on acco^{t} of our being appointed by the Hon^{le} E: I. C^{o} to sell their teas designed for this place, that your Excellency & Honors will grant us that protection, assistance and advices, wch we have implored and which is so needful for us in our present circumstances — The interest committed to our care is of great value; and we are as Merchants & honest men under every obligation, to do all in power to secure the same from every injury, & as far as we shall judge it practicable; to follow the directions which we shall receive from our Constituents as we doubt not they will be legal & reasonable, but as we judge this will not be in our power to execute their orders; without exposing the Town to great confusion, & perhaps to many consequent mischiefs, and our constituents interest to danger we shall be willing & desirous to give our orders, under your Excellency & Honors protection & assistance to have the Teas on their arrival deposited in some safe place and there to remain on such conditions and during such a time as your Excellency, & Honors shall please to direct or advise for that end. And we beg leave to declare our readiness to indemnify the province and your Excellency & Honors from all charges & risques, that may be thought will arise from your Excellency & Honor's giving your directions relative to s^{d} affair.[1]

by thise with ringing the Bells & other means a number of people were collected at Liberty Tree from thence they came to the Store of

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rough draft of a Petition presented by the tea consignees. The following extract is taken from the Council Records of 19 November, 1773:

Whilst the Council were debating on the subject, a Petition from Richard Clarke, Benjamin Faneuil, and Messrs Thomas and Elisha Hutchinson to the Governor and Council was presented (Massachusetts Archives, Council Records, xvi. 741).

The Petition referred to in this extract is not recorded in the Council Records, but it was printed, together with the Proceedings of the Council relative thereto from 19 November to 21 December (taken from the Council Records, xvi. 741–749), in the Boston News-Letter of 30 December, 1773, No. 3665, pp. 1, 2. The Petition and Proceedings have also been printed in Drake's Tea Leaves (pp. 309–320).

The rough draft differs materially from the Petition actually presented. With it should be compared the proceedings in the Boston Town Records for 5, 11, and 18 November, and the Selectmen's Minutes for 27, 28 November and 8 December, 1773. These are printed in the Boston Records Commissioners' Reports, xviii. 141–148, xxiii. 202–205, where also will be found the votes and answers referred to but not given in the rough draft.

[1] There is here a break in the manuscript.

R. Clarke Esqr & Sons where we the supposed Factors were together a number came from among the people as a Committee into the Store & demanded that we shou'd promise not to receive the Teas nor pay any duty on them but immediately on their arrival reship them for Eng^{d} in the same bottom, which upon our refusing to comply with they saying we must expect the weight of the people's resentment left us return'd to the people soon after which the people before the door attacked the Store in a riotous manner & attempted to force their way into the room where we were but were prevented, by us & our Friends within & after repeated efforts of this sort they dispers'd On friday the 5. ins^{t} the Inhabitants of this Town assembled at Faneuil Hall and passed several resolves relative to the Teas expected to be sent here by the H. E. I. C. two of which we beg leave particularly to lay before your E. & y^{r} H. Board.

We rec^{d} the same day an attested Copy of the foll^{g} Vote of the Town Viz ——— & on the same day the foll^{g} answer was sent into the Town meet^{g}, the next morning the Town being again assembled Mr T. H.[1] upon receiv^{g} the same Vote of the Town return'd the following Answer Viz ——— upon receiv^{g} which the Town voted that both the answers were unsatisfactory & daringly affrontive from which time to y^{e} 17. ins^{t} we rec^{d} no attacks nor insults excepting one or two menacing Letters but on the even^{g} of y^{e} 17. on which day Capt Scot[2] arriv'd from London in whom came passenger Jon^{a} Clarke one of the Factors of the h$^{'ble}$ E. I. C. a great number of people assembled to gether in a riotous manner & violently attacked the house of R. C. one of your Petitioners & with Stones Brickbats Clubs & Cord wood Sticks continued for the space of two hours breaking the windows & window Shutters & doing other damage whereby the Lives of the family were in imminent danger notwithstanding many efforts to disperse the People[3] on the next day

[1] Thomas Hutchinson, Jr. Thomas and Elisha Hutchinson were sons of Gov. Hutchinson.

[2] Jonathan Clarke came in the Hayley, Capt. James Scott, as appears from a notice in the Boston News-Letter of 18 November, 1773, No. 3659, p. 2/2. A letter written by Jonathan Clarke on the day of his arrival is printed in Drake's Tea Leaves (p. 278), where also will be found three letters written by him in London 1, 2 July, and 5 August, 1773 (pp. 209–211, 224, 243). For a notice of Capt. Scott, who later married Dorothy (Quincy) Hancock, the widow of John Hancock, see the Publications of this Society, vi. 318 *note*.

[3] The following account of this affair is taken from the Boston News-Letter of 18 November, 1773, No. 3659:

Last Evening a number of Persons assembled in School-Street, they broke the Windows and did other considerable Damage by throwing large Stones into the House of the late

another Town meeting assembled from which we rec^{d} by their Committee the following Vote —— to which we return'd the following answer.[1]

Middlecot Cook, Esq; near King's Chappel, now belonging to Dr. Saltonstall of Haverhill, and occupied by Richard Clarke, Esq; (p. 2/3).

A still longer account was printed in the Boston News-Letter of 26 November, 1773, No. 3660, p. 2/3; and the attack was referred to in the Boston Gazette of 29 November, 1773, No. 973, p. 2/3.

This house stood on the northerly side of School Street, on the lot contiguous on the west to that on which King's Chapel stands and the Burial Ground. This lot, having a frontage of 56 feet on School Street and extending back 130 feet, embraced about one third of the present City Hall yard beside an area nearly fifty feet square covered by the westerly portion of the City Hall. The Franklin Statue stands near the front of the lot. This estate, in whole or in part, belonged to Dr. Elisha Cooke (H. C. 1657) as early as 1705, and descended to his son the Hon. Elisha Cooke (H. C. 1697) and his grandson the Hon. Middlecott Cooke (H. C. 1723), who died seized 1 May, 1771, at the age of 66. By his will he devised it to his nephew Dr. Nathaniel Saltonstall (H. C. 1766) of Haverhill, who sold it in 1795 to John Lowell, Jr. (H. C. 1786), for his residence. He in turn sold it in 1822 to Asa Richardson, and George Morey, as Trustee under Richardson's will, sold it in 1839 for $37,500 to the City of Boston.

The house was built of stone, two stories in height with a pitched roof with balustrade and dormer windows, and faced the east. The front door, in the centre of the house, was arched and was approached from the left by a flight of winding stone steps, the broad landing being covered by a porch supported by Corinthian columns. A view of this house is in the Polyanthos for September, 1813. It was here that Governor Burnet sojourned on his arrival in Boston, in the summer of 1728, as the guest of the Hon. Elisha Cooke, while the Province House was being made ready for his occupancy. It has been erroneously stated (New England Historical and Genealogical Register, xlvi. 15, 16) that Richard Clarke's house, in 1773, stood in School Street *opposite* King's Chapel. The Cookes owned much land on the southerly side of School Street, but it was devised by Middlecott Cooke to his nephew Leverett Saltonstall, a brother of Dr. Nathaniel Saltonstall, and it was not until Leverett's death, in New York, 20 December, 1782, that Nathaniel became seized of any estate on that side of the street (Suffolk Probate Files, nos. 3700, 7042, 14923; Suffolk Deeds, xxii. 315, clxviii. 205, 206, clxxx. 161, cclxxv. 262, ccccxlvi. 81; New England Weekly Journal of 22 July, 1728, No. 70, p. 2/1; Boston Town Record of Deaths; Boston Directory, 1796, 1810; Ancestry and Descendants of Sir Richard Saltonstall, p. 23).

A few extracts will show the strong popular feeling against the tea con-

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[1] There is here a break in the manuscript.

From these circumstances Your Excellency & the Honble Board must be sensible that our scituation is difficult And as we are not conscious in

signees. In the Boston Gazette of 8 November, 1773, No. 970, p. 3/1, was printed this appeal, signed "A Poor Old Man:"

Messieurs Edes & Gill,

A Poor man's wisdom saved a city. I am indeed a friend to Mr. Clarke and his sons, to the two sons of Gov. Hutchinson, and more especially to Mr. FANEUIL, whose generous uncle gave us our hall of liberty. And I would earnestly intreat them all to yield without delay to their fellow townsmen. — It may easily be done in a letter to the selectmen.

In the Boston Gazette of 22 November, 1773, No. 972, appeared the following:

One of the Sons of Richard Clarke, a Tea Factor, having some Time since been in Bargain with Mr. Benjamin Jepson for a Quantity of Oil, came on Friday last [19 November] to Mr. Jepson and desired him to take a Man with them to turn out the Oil that he might see it: But Mr. Jepson like a true Friend of his Country told Mr. Clerke with Indignation that he could not have any Thing further to say to him, as he had given the Town so much Trouble and Danger, he would not let him have it for twice what he offered. A notable Example this of Uniformity in public and private Conduct. These Persons having been unanimously voted public Enemies in Case they persist in their Resolution to dispose of the East-India Company's Teas (p. 2/3).

The following is taken from the Boston Gazette of 17 January, 1774, No. 980:

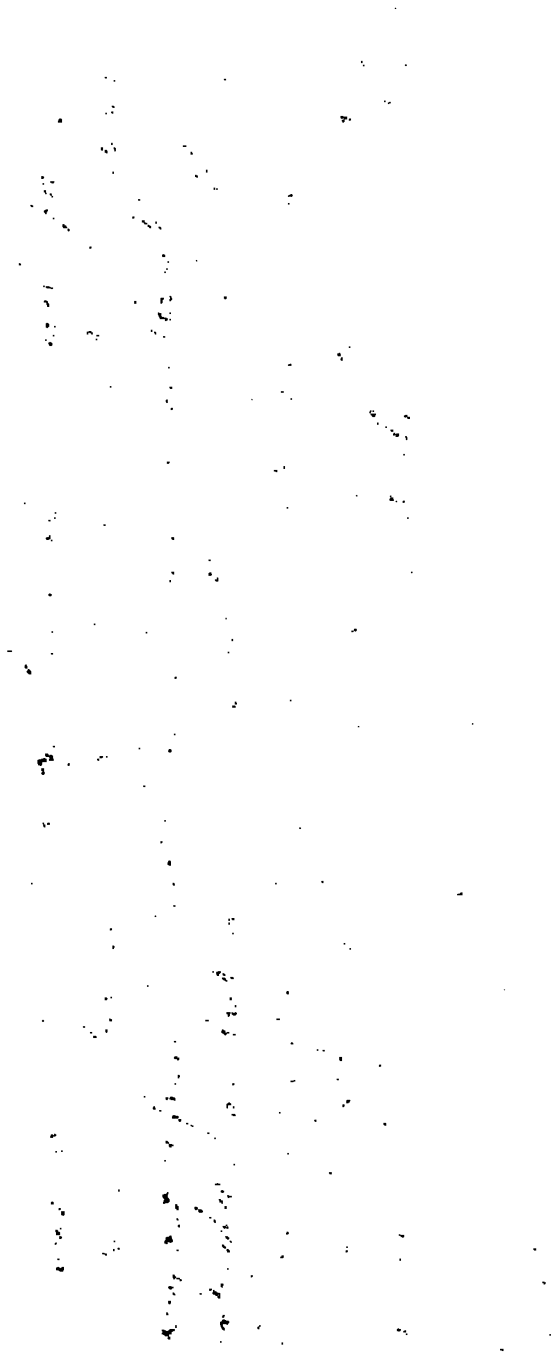
One of the Tea Commissioners it is said narrowly escaped a Tarring and Feathering one Day last Week — Presumptuous Men to think of gaining a footing in this Town again — so says every Man high and low, rich and poor (p. 3/3).

In the Boston Gazette of 24 January, 1774, No. 981, will be found the following:

Last Monday evening [17 January] Elisha Hutchinson one of the consignees arrived at the house of Col. Watson of Plymouth, his father-in-law. The people obtaining knowledge of it, they tolled the bells in a solemn manner, and there was speedily a great appearance of them before the house, demanding Mr. Hutchinson's instant departure from the town; but through the interposition of the committee of correspondence, so much traduced, because so much dreaded by the tories, he was suffered to tarry until the next morning. In the morning the young gentleman, either over sleeping himself, or perhaps disposed to make an experiment on the temper of the people, tarried beyond the limitted time; but was fully convinced that his safety depended on his departure and he decamped in a snow storm; making the best of his way to Cheesemetuck to relate the melancholy adventure to the very sympathetic Chief Justice HAZELROD (p. 3/1).

Peter Oliver was then Chief-Justice, but why the sobriquet of "Hazelrod" should have been applied to him does not appear. He married Mary Clarke, the sister of Richard Clarke (Boston Record Commissioners' Reports, xxviii. 186). For a notice of him, see the Publications of this Society, v. 70–74.

The Boston Gazette of 3 February, 1774, No. 983, contained a long extract from a letter dated Plymouth, 1 February, in which it is stated that "*a Tribe of Indians met at Col. Watson's and* Boot-cap'd *Mr. Hutchinson's Sley*" (p. 3/1).



fit, respecting the Teas, which we expect to be sent us from the East India Company, and promise to confirm whatever you shall do in this Affair whenever it may be required of me.

I am

Your Affectionate Father
and faithful Friend
RICHARD CLARKE

Messrs JONATHAN,
& ISAAC WINSLOW CLARKE

[*Addressed*]

To
Messrs JONATHAN & ISAAC WINSLOW CLARKE
Merchts.
In Boston

VII

RICHARD CLARKE TO ISAAC WINSLOW CLARKE.

BOSTON Aug. 9th 1774

DEAR ISAAC,

I judge from something I have heard, that it will be best, that our family remove to Town as soon as may be. I have not yet seen Mr Lee,[1] but think that we shall spend the winter wth Mr Copley.

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[1] Joseph Lee, son of Thomas and Deborah (Flint) Lee, was born in Boston 23 March, 1710–11, and graduated at Harvard College in 1729. He was a classmate and lifelong friend of Richard Clarke, and for many years was a merchant in Boston, and engaged with Mr. Clarke in various enterprises. He was also one of Prince's Subscribers. Removing to Cambridge, he was chosen Representative, and became a founder and Warden of Christ Church. He married in 1755 Rebecca Phips, daughter of Lieut.-Gov. Spencer Phips, but had no children. His mansion-house in Tory Row is now numbered 159 Brattle Street, and makes the easterly corner of Kennedy Avenue. He held commissions of the Peace and Quorum in Suffolk and Middlesex, as Judge of the Inferiour Court of Common Pleas, and as Special Justice of the Superiour Court of Judicature. Appointed a Mandamus Councillor, he resigned his seat, addressing the people, who filled Harvard Square, from the steps of the Court House, which occupied the present site of Lyceum Hall. He dwelt in Boston during the siege, — "a Loyalist, but being a quiet man and moderate in his opinions, remained unmolested" on his return to Cambridge, where he resided, respected and beloved, till his death,

Brethren, and Fellow Citizens!

YOU may depend, that those odious Miscreants and detestable Tools to Ministry and Governor, the TEA CONSIGNEES, (those Traitors to their Country, Butchers, who have done, and are doing every Thing to Murder and destroy all that shall stand in the Way of their private Interest,) are determined to come and reside again in the Town of Boston.

I therefore give you this early Notice, that you may hold yourselves in Readiness, on the shortest Notice, to give them such a Reception, as such vile Ingrates deserve.

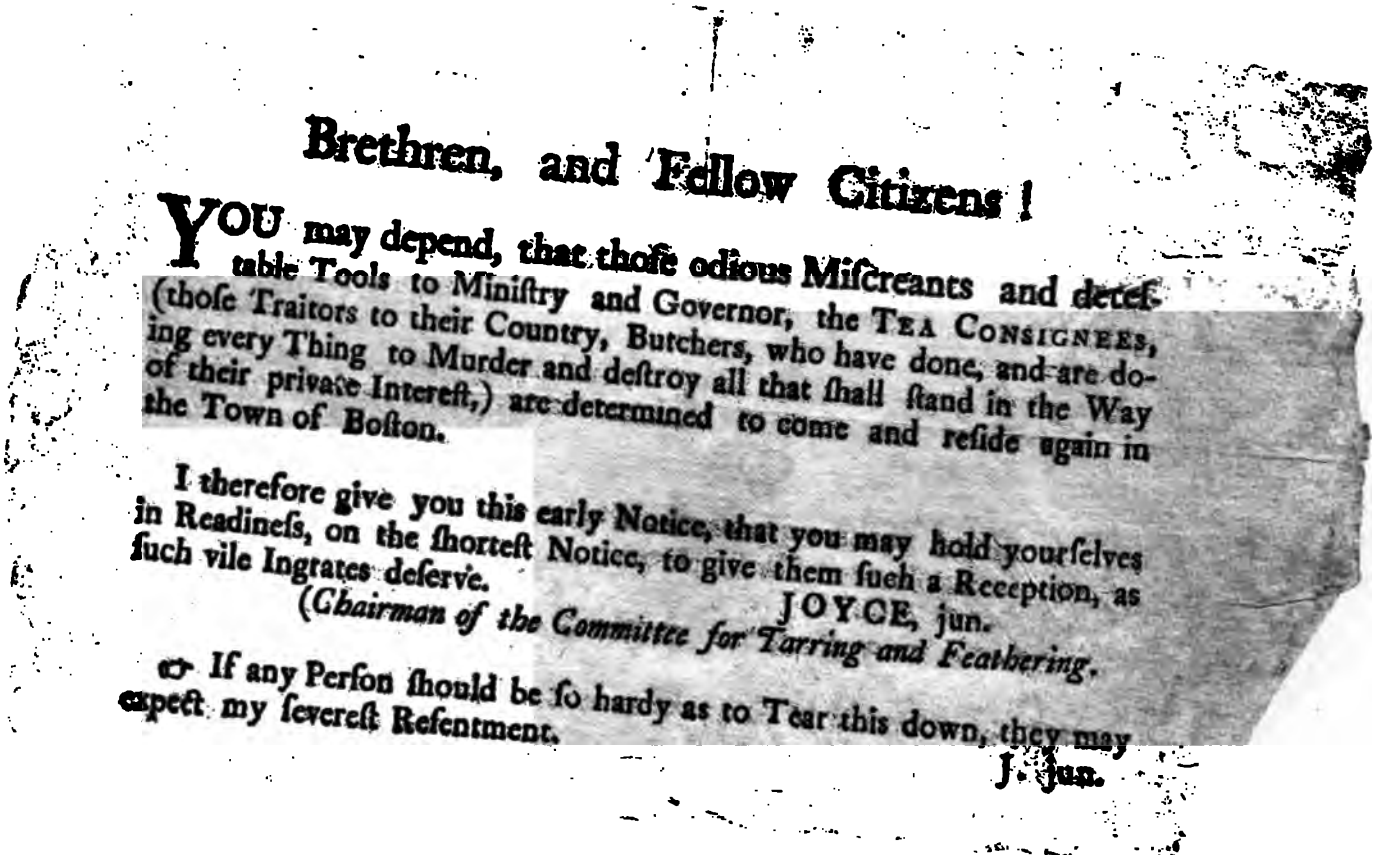
JOYCE, jun.

(Chairman of the Committee for Tarring and Feathering.

☞ If any Person should be so hardy as to Tear this down, they may expect my severest Resentment.

J. jun.

Engraved for The Colonial Society of Massachusetts from the handbill owned by Richard Clarke now in the possession of Jonathan Royce Slade Esquire



Brethren, and Fellow Citizens!

YOU may depend, that those odious Miscreants and detestable Tools to Ministry and Governor, the TEA CONSIGNEES, (those Traitors to their Country, Butchers, who have done, and are doing every Thing to Murder and destroy all that shall stand in the Way of their private Interest,) are determined to come and reside again in the Town of Boston.

I therefore give you this early Notice, that you may hold yourselves in Readiness, on the shortest Notice, to give them such a Reception, as such vile Ingrates deserve.

JOYCE, jun.

(*Chairman of the Committee for Tarring and Feathering.*

☞ If any Person should be so hardy as to Tear this down, they may expect my severest Resentment.

J. jun.

Engraved for The Colonial Society of Massachusetts from the handbill owned by Richard Clarke now in the possession of Denison Rogers Slade Esquire

The Articles that we shall want are Bedsteads, beds, bed Cloaths, and the household linen, the plate, knives & forks, pork (which I think it will be best to pack in the half bll) and what Bacon may be left, as to any other articles I must leave it to you & your Sister, what may be wanted, and what may be transported wth the least difficulty, if it would not be attended with too much trouble, I should be glad to have our wine & porter sent, but would not have you loose too much time about them, our friends will be so good as to send them hereafter. If any disturbance should take place soon I hope you will be on your guard — I look on the times to be perilous, and besides dont see any prospect of your doing any business at Salem, and therefore would advise to your hastening to this place. Give my love to the family, and our friends down in Town.

Your affec. Father
RICHARD CLARKE

P.S. We shall want the salt
fish & perhaps many things,
which I do not now recollect

Again on behalf of Mr. SLADE, Mr. EDES communicated a printed handbill which has been preserved among the Clarke family papers. It is as follows:

Brethren, and Fellow Citizens!

YOU may depend, that those odious Miscreants and detestable Tools to Ministry and Governor, the TEA CONSIGNEES, (those Traitors to their Country, Butchers, who have done, and are doing every Thing to Murder and destroy all that shall stand in the Way of their private Interest,) are determined to come and reside again in the Town of Boston.

I therefore give you this early Notice, that you may hold yourselves in

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5 December, 1802. The Burial Register of Trinity Church, Boston, contains this entry:

1802 December 8. Honble Joseph Lee, Esqr at Cambridge 93.

(Boston Record Commissioners' Reports, xxiv. 76; John Andrews's Letters in 1 Proceedings of the Massachusetts Historical Society, viii. 353; John Leigh of Agawam and his Descendants, Albany, 1888, pp. 46–48; New England Historical and Genealogical Register, xxv. 240; Paige's History of Cambridge, pp. 151, 153, 168, 169, 175, 176, 307, 308, 310, 375, 461, 627; Whitmore's Massachusetts Civil List, pp. 64, 73, 74, 88, 89, 129, 130, 138; Memorial History of Boston, ii. 561, iii. 113, 153; Publications of this Society, vii. 89–93.)

Readiness, on the shortest Notice, to give them such a Reception, as such vile Ingrates deserve. JOYCE, jun.

(Chairman of the Committee for Tarring and Feathering.

☞ If any Person should be so hardy as to Tear this down, they may expect my severest Resentment. J. jun.

Mr. ALBERT MATTHEWS spoke as follows:

When Mr. Edes showed me the other day the handbill which has just been exhibited, I said that I had among my papers some notes bearing on the subject and that I would bring these to the meeting to-day. This particular handbill, as we learn from a Boston newspaper, "was seen pasted up on the most public Places in this Town" on "Saturday Morning last," January fifteenth, 1774.[1]

It is to be regretted that our liberty-loving ancestors of the stormy decade between 1765 and 1775 should have persecuted with such bitterness those who differed from them in their political beliefs. The passage of the Stamp Act was the signal for an outburst of violence from Halifax to Georgia. At first this was confined to the comparatively harmless amusement of hanging and burning in effigy Bute, Grenville, and others who had been, or were popularly supposed to have been — for mistakes were sometimes made, — instrumental in procuring the enactment of that fateful measure. Soon, however, the patriots resorted to less pardonable methods, and by the autumn of 1768 we find that the practice of tarring and feathering had become well established. On a future occasion I hope to be able to give the history of this practice in some detail, but at present I shall confine myself to Joyce Junior. So far as I am aware, this at one time noted personage made his first appearance in the handbill exhibited by Mr. Slade. For several years he was a conspicuous figure in the streets of Boston.

In a series of articles called Reminiscences, printed in a Boston newspaper late in the year 1821, the author, alluding to the celebrations which took place on Pope Day, said:

[1] Boston Gazette, 17 January, 1774, No. 980, p. 3/3. The handbill was printed in this issue of the Boston Gazette, p. 3/3; in the Essex Gazette, 11–18 January, 1774, vi. 99/2; and in the Boston News-Letter, 20 January, 1774, No. 3668, p. 1/2.

A man used to ride on an ass, with immense jack boots, and his face covered with a horrible mask, and was called Joyce, Jr. His office was to assemble men and boys in mob style, and ride in the middle of them, and in such company to terrify the adherents to Royal Government, before the Revolution. The tumults which resulted in the Massacre, 1770, was excited by that means. — *Joyce Junior*, was said to have a particular whistle which brought his adherents, &c. whenever they were wanted.[1]

This is the only explanation I have met with of the origin of Joyce Junior, and there are good reasons for doubting its accuracy. First, it is obvious that a celebration which took place on November fifth could hardly have given rise to a tumult which did not occur until March fifth. Secondly, it will be noted that, according to our author, a chief object of Joyce Junior was "to terrify the adherents to Royal Government, before the Revolution." But until 1765 all the colonists were adherents of the Royal Government, yet Pope Day had been celebrated in Boston certainly for a generation, and doubtless for many generations, before the Stamp Act.[2] Thirdly, our author's description of the appearance of Joyce Junior does not tally, as we shall later see, with what Mrs. Abigail Adams wrote about him in 1777. Finally, our unknown author was writing half a century after the event and not even from personal recollection. In the first of his Reminiscences, he says:

I propose to mention what I remember, connected with some things which I have heard, of the Town of Boston. I have known it from about the time of the peace of 1783; — and can remember accurately about one third of a century.[3]

Hence, on his own confession, he could not remember accurately what took place before 1788. We all know so well how treacherous

[1] Boston Daily Advertiser, 9 November, 1821, p. 2/3. The paragraph will also be found in Niles's Principles and Acts of the Revolution (1822), p. 490, but wrongly attributed to the Boston Gazette.

[2] In 1740 the Selectmen of Boston —

Voted, That mr. Savell be directed to Send a Watch into the Common this Evening to prevent any Damage to the Rails & Trees there — it being the 5th. of Novr. when large Numbers of Persons meet there (Boston Record Commissioners' Reports, xv. 259).

Similar precautions had been taken in 1737 and 1738 (*Ibid.* xv. 81, 141).

[3] Boston Daily Advertiser, 30 October, 1821, p. 2/2.

a thing the memory is, that perhaps illustrations are superfluous; but there happens to be one which is so apt that I cannot refrain from bringing it forward. At the very time when our author was writing his Reminiscences in one Boston newspaper, in another Boston newspaper there were appearing the Recollections of a Bostonian. The writer introduces his Recollections as follows:

MR. RUSSELL — Monday last, Nov. 5th, being "Pope Day," brought to my recollection scenes of former days. — Some of them I have placed on paper. To three fourths of your readers they may be new, and perhaps amusing to others. Yours, A BOSTONIAN.[1]

In his second article the Bostonian gives this interesting account of his experiences after the evacuation of Boston by the British:

THE British army evacuated Boston on the forenoon of Sunday, the 17th March, 1776. On the afternoon of that day, I landed . . . at the bottom of the Common, near the high bluff, which was taken away a few years ago to make Charles-street. . . . On crossing the Common, we found it very much disfigured with ditches and cellars, which had been dug by the British troops, for their accomodation when in camp. To our great regret, we saw several *large trees* lying in the Mall,[2] which had been cut down [by the Tories] that morning. . . . The Mall was originally laid out with only two rows of trees, a third was added a few years before the war, which we found were all cut down for fuel, together with the intire fence which surrounded the Common, as was also a large magnificent tree, which stood on the town's land, near the school house in West-street, of equal size with that which now stands in the middle of the Common, both of which I suppose to be *aboriginals*.[3]

The language here used seems to imply that the Tories cut down all the trees in each of the three rows, but possibly the Bostonian means that they cut down only the trees in the third row. Now it so happens that we have documentary evidence in regard to the planting of those three rows of trees. The first row was set out in 1725, the second in 1734, and the third in 1784.[4] In short, those

[1] Columbian Centinel, 10 November, 1821, p. 1/4.

[2] This refers to the mall along Common Street, now Tremont Street.

[3] Columbian Centinel, 17 November, 1821, p. 1/4.

[4] Boston Record Commissioners' Reports, viii. 192, xii. 58, 59, xxv. 248. The history of the trees on the Common was given in an article in the Boston Evening Transcript, 20 March, 1902, pp. 1/7, 3/4. Permission to plant a third row

trees which the Bostonian in 1821 so confidently declared had been "added a few years before the war" and had been cut down by the Tories in 1776, were not planted until eight years after the British left Boston! After this striking example of the unreliableness of memory, we need not place too implicit confidence in the Reminiscences.

But to return to Joyce Junior. As already stated, his first appearance was apparently in the handbill exhibited to-day. For several months after he was very much in evidence. In a Boston newspaper of 31 January, 1774, will be found the following:

Yesterday Morning the following Hand-Bill was seen pasted up on the most publick Places in this Town, viz.

Brethren, and Fellow-Citizens!

THIS is to Certify, That the modern Punishment lately inflicted on the ignoble JOHN MALCOM, was not done by our Order — We reserve that Method for bringing Villains of greater Consequence to a Sense of Guilt and Infamy.

JOYCE, jun^r.

(*Chairman of the Committee for* Taring *and* Feathering.

☞ If any Person should be so hardy as to tear this down, they may expect my severest Resentment. J. jun.[1]

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was granted by the Selectmen 26 July, 1784. From the Massachusetts Centinel of 7 August, 1784, we learn that —

By the present plan the mall is to consist of three ranges of elm trees, fenced in on the inner and outer sides (p. 3/2).

In the same paper of 18 August, 1784, we are told:

As trees are the primary objects, they will command the first attention; the two rows already in the mall will be immediately compleated; a third row will follow (p. 3/1).

See also the Massachusetts Centinel, 1 September, 1784, p. 3/2; 15 September, p. 3/3; 18 September, p. 5/3; 22 September, p. 3/2.

[1] Boston Gazette, No. 982, p. 3/2. This was also printed in the Essex Gazette, 25 January–1 February, 1774, vi. 107/2; in the Boston News-Letter, 3 February, No. 3670, p. 2/3; and in the Massachusetts Spy, 3 February, 1774, No. 157, p. 2/3. It was not often that the same man was tarred and feathered more than once, but this unhappy experience twice befell Malcom. He was "genteely TARR'D and FEATHER'D" at Pownalborough (now Dresden, Maine) on November first, 1773, and on January twenty-fifth, 1774, a mob in Boston

The next extract is from a newspaper of 28 March, 1774:

A CARD.

THE Plymouth Protestors present their Compliments to JOYCE, jun. and ask the Favor of him to make Preparation for a Reception of a select Committee from their Body, who propose to honor the Metropolis with a Visit very soon.[1]

In a newspaper of 17 March, 1777, was printed this notice:[2]

JOYCE Junior,

PRESENTS his most respectful compliments to those chosen few, who early and faithfully engaged in the Cause of Liberty and their Country, to oppose those Sons of Tyranny who took Shelter behind the British Tyrant's Edicts, and Band of Hireling Vassals, That he is once more returned from Correcting those Miscreants, after almost two Years Absence; That he will meet them at the *old Place* of Randezvous toMorrow Evening, 7 o'Clock, in Order to Consult the most effective Ways and Means to carry into Execution the Act of this State to prevent Monopoly and Oppression; To see what is best to be done with those shameless Brass Faced Tories, who have the Audaciousness to remain among this much abused and insulted People, and still carry on their Treacherous Designs; To take the best Methods to get rid of a Set of abandoned Miscreant Tories, who have been drove out of the several Towns in this State for their Villainous Doings, and have taken Shelter in this Town; To take some effective Method to prevent their frequent Meetings, and Act upon all such Matters as shall come before them.

"tore his Cloaths off, and tarr'd his Head and Body, and feathered him, then set him in a Chair in the Cart, and carried him through the main Street into King-Street, from thence they proceeded to Liberty-Tree, and then to the Neck as far as the Gallows, where they whipped him, beat him with Sticks and threatened to hang him." See the Boston Gazette, 15 November, 1773, No. 971, p. 3/2 ; Boston News-Letter, 27 January, 1774, No. 3669, p. 2/3, 3 February, 1774, No. 3670, p. 2/3; Massachusetts Spy, 27 January, 1774, No. 156, p. 3/3.

[1] Boston Gazette, No. 990, p. 2/2.

[2] *Ibid.*, No. 1175, p. 3/2. In the same paper of 24 March, 1777, No. 1176, p. 3/2, is the following:

☞ *JOYCE jun. must be omitted this Week.*

N. B. I desire you would make a proper Enquiry of a Rescinding Calf,[1] a Malden Porter,[2] a Cape-Ann Serjeant[3] and a Refugee Upham.[4]

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[1] By the somewhat enigmatical sobriquet of "the Rescinding Calf" is meant Dr. John Calef of Ipswich. Whether "Calf" was an intentional insult or merely a misprint, does not appear. The explanation of the satire takes us back to 1768. On the fourth of February in that year, in the House of Representatives, —

It was moved that a Committee of this House be appointed to prepare a letter to be transmitted to the several Houses of Representatives and Burgesses on the Continent, to inform them of the Measures which this House have taken with regard to the Difficulties they are apprehensive will arise from the operation of several Acts of Parliament for levying Duties and Taxes on the *American* Colonies and report. And the Question being put, *Whether a Committee shall be appointed for the Purpose aforesaid?* It pass'd in the Affirmative (Massachusetts House Journals, p. 148).

On the eleventh of February —

The Committee for that purpose appointed, Reported a Letter to the several Houses of Representatives and Burgesses on the Continent (*Ibid.* p. 157).

The Appendix to the House Journals contains A circulatory Letter, directed to the Speakers of the respective Houses of Representatives and Burgesses on this Continent (pp. 20–23). When this Letter reached England, it aroused the ire of the Government. The next House met in May, 1768, and on the twenty-first of June Gov. Bernard, in pursuance of instructions he had received, sent a Message to the House requiring it, "in his majesty's name, to rescind the resolution of the last house of representatives, in consequence of which a circular letter had been sent to the several assemblies upon the continent" (Hutchinson,

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[2] Dr. Jonathan Porter had long been a prominent inhabitant of Malden, and why his patriotism should have been suspected does not appear. The following notice is taken from the Independent Chronicle of 22 May, 1777, No. 457, p. 3/2:

At a Meeting of the Town of Malden, voted, nem. con. *That the Piece signed* JOYCE, jun. *published in the Paper of the 17th of March last, so far as it respects the Character of* Doctor Porter, *late an Inhabitant of this Town, is false and groundless.*

Attest. *SAMUEL MERRITT, Town-Clerk.*

Malden, May 19, 1777.

My attention was called to this notice in D. P. Corey's History of Malden (p. 778), where also will be found much information about Dr. Porter.

[3] See p. 98 *note* 5, below.

[4] This was Joshua Upham (H. C. 1763) of Brookfield, Massachusetts. He was an Addresser of Gage 1 July, 1774, removed to Canada, and later became Justice of the Superior Court of the Province of New Brunswick. See Sabine, Biographical Sketches of Loyalists of the American Revolution, ii. 372, 373.

That the threat against the persons mentioned in the last paragraph was not an idle one, is shown by the notification which was issued 19 April, 1777:

History of Massachusetts, iii. 195). The matter at once engaged the attention of the House, and on the thirtieth of June —

Then it was mov'd, that the Question be put, Whether this House will Rescind the Resolution of the last House which gave Birth to their circular Letter to the several Houses of Representatives and Burgesses in the other Colonies on this Continent?

Thereupon a Motion was made, and the House passed an Order that the Question be decided by Yeas and Nays.

The Question was then put, and the Members severally giving their Voice Yea or Nay, it pass'd in the Negative by a Division of 92 to 17 (House Journals, p. 89).

At that time Ipswich had two Representatives, Capt. Michael Farley and Dr. John Calef. Among the seventeen Yeas was the name of Dr. Calef. Hutchinson's comment is as follows:

Many who voted against the resolution would not rescind it, because they would not be subject even to royal direction, in the character of members. The seventeen rescinders were against the resolution when it passed.[1] If there had been no requisition, they would willingly have rescinded. They did not think they could justify a refusal to rescind, merely because the king required it. But though they could justify their conduct to their own consciences, they could not excuse it to the satisfaction of the people. The house ordered that the names, on both sides of the question, should be printed. One list was handed about with every expression of honour and applause; the other, like the list of the Straffordians in the last century, was hung up, in contempt and derision. The number 92 was auspicious, and 17 of ill omen, for many months after, not only in Massachusetts Bay, but in most of the colonies on the continent (History of Massachusetts, iii. 197).

Hutchinson's language as to the popular effect of the vote is not exaggerated. For a while the number 92 became as famous as Wilkes's number 45, and the two were often coupled together. In the Boston Evening-Post of 1 August, 1768, No. 1714, appeared the following:

Last Monday se'ennight [18 July], the Tower of Trinity Church, in Newport, was raised by 45 Sons of Liberty who, we are told, the ensuing Evening, supped together on 45 different Dishes. — The same Evening a considerable Number of Gentlemen met at Mr. Potter's, where they drank many loyal Healths, and concluded with toasting the Massachusetts Ninety-Two *Anti-Rescinders* (p. 3/1).

The anniversary of the repeal of the Stamp Act soon came, and in the same paper of 22 August, No. 1717, we read:

Boston, August 22. 1768.

ON Monday the 15th Inst. the Anniversary of the ever memorable *Fourteenth of August*, was celebrated by the SONS OF LIBERTY in this Town, with extraordinary Festivity. At the Dawn, the British Flag was displayed on the *Tree of Liberty*, and a Discharge of *fourteen* Cannon, ranged under the venerable Elm, saluted the joyous Day. . . . The Musick began at high Noon, performed on various Instruments, joined with Voices; and concluding with the universally admired *American* Song of Liberty,

[1] This statement is slightly inaccurate, for Dr. Calef was not a member of the House which passed the resolution.

BOSTON, April 19, 1777. 5 o'Clock, P. M.

Mr. EDES,

Omit publishing the following at your Peril.

A NOTIFICATION.

WHEREAS, by my express Command, this Day, five Tory Villains were carted over the Line on Boston *Neck, viz.* William Jack-

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. . . The Song was clos'd with the Discharge of Cannon and a Shout of joy; . . . The following Toasts succeeded, viz. . . .

14. *The glorious* Ninety-Two, *who defended the Rights of AMERICA, uninfluenced by the Mandates of a Minister, and undaunted by the Threats of a Governor.*

Which being finished, the French Horns sounded; and after another Discharge of Cannon, compleating the Number NINETY-TWO, the Gentlemen in their Carriages, repair'd to the Greyhound Tavern in Roxbury, where a *frugal* and *elegant* Entertainment was provided (pp. 2/3, 3/1).

At this "frugal" entertainment 45 more toasts were "given out," among them being the following:

17. *The MASSACHUSETTS* Ninety-Two!

It is sometimes said at the present day that Americans have short political memories. However this may be, the reproach cannot with justice be brought against our ancestors of the last half of the eighteenth century. John Adams complained that for years after the Boston Massacre the people of Boston did not forget or forgive his share in the defence of the accused soldiers (Works, ix. 617, x. 162, 166). More than six years after the refusal of the Massachusetts House to rescind, Dr. Calef's share in that matter was well remembered. In the Essex Gazette of 11–18 October, 1774, No. 325, p. 3/2, appeared the following:

INASMUCH as a great Number of Persons are about the House of the Subscriber, who say they have heard I am an Enemy to my Country, &c. and have sent a large Committee to examine me respecting my Principles — In Compliance with the Request, do declare,

First. I hope and believe I fear God, honour the King, and love my Country.

Secondly. I believe the Constitution of Civil Government, as held forth in the Charter of Massachusetts-Bay Province, to be the best in the whole World, and that the Rights and Privileges thereof ought to be highly esteemed, greatly valued and seriously contended for, and that the late Acts of Parliament made against this Province are unconstitutional and unjust, and that I will use all lawful Means to get the same removed; and that I never have and never will act by a Commission under the new Constitution of Government, and if ever I have said or done any Thing to enforce said Act, I am heartily sorry for it; and as I gave my Vote in the General Assembly on the 30th of June, 1768, contrary to the Minds of the People, I beg their Forgiveness, and that the good People of the Province would restore me to their Esteem and Friendship again. JOHN CALEF.

Ipswich, October 3, 1774.

I am free the said Committee should make what Use of the above Declaration as they think proper. JOHN CALEF.

After he had read the above Declaration, it was put to Vote, and the Company voted Acceptance.

The passage in the text shows that even as late as 1777, Dr. Calef's unpopular act of nine years before had not been allowed to pass into oblivion.

son,[1] Nathaniel Cary,[2] James Perkins,[3] *and* Richard Green,[4] *of this Town, and a certain* Epes Serjeant,[5] *of Cape-Ann, Persons, whose Characters*

[1] William Jackson was a well-known merchant of Boston. In the Boston Evening-Post of 17 October, 1768, No. 1725, Jackson advertised that he "is just

[2] Nathaniel Cary was an Addresser of Hutchinson 28 May, 1774, and of Gage 8 June, 1774, and 6 October, 1775. See Sabine, Biographical Sketches of Loyalists of the American Revolution, ii. 494.

[3] James Perkins was an Addresser of Hutchinson 28 May, 1774, and of Gage 8 June, 1774, and 6 October, 1775. See Sabine, Biographical Sketches of Loyalists of the American Revolution, ii. 177.

[4] Richard Green was an Addresser of Gage 6 October, 1775. For the following information in regard to him, I am indebted to Mr. Henry H. Edes.

Richard Green, son of Samuel and Mary (Briggs) Green, was born in Boston 13 December, 1730. The Registers of King's Chapel record the burial of his mother on the tenth of April, 1755, at the age of 45, and of his father, a "chaize maker," on the second of October following, at the age of 47. Mr. Green became a prosperous merchant and the owner of valuable real estate on the northwesterly side of Newbury (now Washington) Street, midway between Temple Place and West Street. He was the senior member of the firm of Green and Cleverly, hardware merchants. On 21 February, 1754, he married, at King's Chapel, Hannah, daughter of Martin and Susanna (Sigourney) Brimmer, and sister of Martin Brimmer who married Sarah Watson, daughter of Col. George Watson of Plymouth and his wife Eliza, daughter of Chief-Justice Peter Oliver. Although an Addresser of Gage, he appears to have remained in Massachusetts during the War. His partner, Stephen Cleverly, was one of the Sons of Liberty, and owned and occupied the estate in Newbury Street contiguous on the east to that of Mr. Green. Mrs. Hannah Green was buried 24 January, 1794, her age being recorded as 61 in the Burial Register of Trinity Church. On the fourteenth of December following, the Trinity Church Register records the marriage of Richard Green and Ann Briggs. She was the daughter of George and Ann (Wing) Briggs, and at her baptism in King's Chapel, 19 September, 1755, her future husband and his first wife, with Jehosabeth Wing, were sponsors. Mr. Green died childless, 26 November, 1817, aged 87, and his widow died 24 October, 1839, aged 84. Both were buried in the Brimmer tomb (No. 17) under King's Chapel. (Boston Record Commissioners' Reports, xxii. 361, 370, xxiv. 197, xxviii. 167, 291, 337, xxx. 10, 135, 354; Suffolk Deeds, cxxvi. 146, ccxvii. 6, ccclxi. 39; Suffolk Probate Files, nos. 22670, 25391, 32310; Boston Town and City Records of Deaths; King's Chapel Registers; Trinity Church Registers; Boston Directory, 1796; 1 Proceedings of the Massachusetts Historical Society, xi. 140; Sabine's Loyalists in the American Revolution, i. 498; Journal and Letters of Samuel Curwen, 1864, p. 475; Memorial History of Boston, ii. 555; Publications of this Society, iii. 198, 199, viii. 86 *note*).

[5] Epes Sargent (1721–1779) was the son of Col. Epes Sargent (1690–1762)

have been so uniform for some Time past, as not to be marked even with the Shadow of a Virtue: — AND whereas there are many more of the

arrived . . . from *London*" (p. 3/3); and in the same paper of 16 January, 1769, No. 1738, p. 3/1, was printed a long advertisement, in part as follows:

Imported in the last Ships from London *&* Bristol, *by*
William Jackson
And sold at his Variety Store,[1] *at the* Brazen-Head,
next the Town-House, Wholesale or Retail, at the lowest Prices,
A good Assortment of English and Hard Ware GOODS.

The name of William Jackson appears in "A LIST of the Names of those who audaciously continue to counteract the *united Sentiments* of the Body of Merchants throughout NORTH AMERICA, by importing British Goods contrary to the agreement" (Boston Evening-Post of 26 February, 1770, No. 1796, p. 1/1). It must have been about the same time that the following handbill was printed, of which a facsimile is given in the Narrative and Critical History of America, vi. 80:

WILLIAM JACKSON,
an *IMPORTER;* at the
BRAZEN-HEAD,
North Side of the TOWN-HOUSE,
and *Opposite the Town-Pump, in*
Corn-hill, BOSTON.

It is desired that the SONS and
DAUGHTERS of *LIBERTY,*
would not buy any one thing of
him, for in so doing they will bring
Disgrace upon *themselves,* and their
Posterity, for *ever* and *ever,* AMEN.

Jackson was an Addresser of Hutchinson 28 May, 1774, and of Gage 8 June, 1774, and 6 October, 1775. In the Boston Gazette of 8 April, 1776, No. 1090, appeared the following:

Last Wednesday [3 April] Capt. Manley took and sent into Beverly, a large brig, after some resistance. This vessel was purchased by William Jackson, at the brazen head, who with Crean Brush, and a number of others, women and children, were on board, besides a serjeant and 12 privates of the *king's own* regiment, who are made prisoners. She was bound for Halifax, and has on board a variety of articles; she is estimated to be worth 35,000 l. sterling (p. 2/2).

For notices of Crean Brush, Capt. John Manly, and William Jackson, see the Publications of this Society, v. 261, 264, 272–275; and Sabine, i. 568.

and the father of Epes Sargent (1748–1822), who graduated at Harvard College in 1766. See J. H. Sheppard, Reminiscences of Lucius Manlius Sargent (1871), pp. 6, 26, 29; Babson, History of Gloucester (1860), pp. 151–153.

[1] "Variety stores" had long existed in Boston, but the earliest use of that particular term known to me — a term which, singularly enough, is not recognized in the Century Dictionary — occurs in an advertisement of William Jackson's "Variety Store" in the Boston Evening-Post of 21 November, 1768, No. 1730, p. 3/3.

same Stamp in this Town, and others daily coming in from the Country, because the Towns they resided in could no longer bear their unparallelled Wickedness, lest they make others as bad as themselves.— AND whereas I have certain Information of a Gang of Tories, who have Weekly Meetings at particular Houses in this Town, under Cover of the Night, then and there consulting and wickedly contriving to ruin, if possible, this once happy Land: — AND whereas there are several Merchants, Shopkeepers and others in this Town, who have a large Quantity of Dry Goods, and West-India Produce, which they have secreted, and still refuse to sell, altho' the good People of this State, and the Army, are in immediate Want of such Articles; and others that do sell, are guilty of many wicked and evil Practices, in adulterating certain of their Goods, and others refusing Paper Currency; — AND whereas, notwithstanding the many good and wholesome Laws of this State, Villains of each of the foregoing Denominations, either by Evasions, or by having their Causes supported by Persons of a certain Class, called Moderate Men, alias Hypocrites, escape condign Punishment: —

I HAVE therefore thought fit to issue this my NOTIFICATION, strictly charging and commanding all Persons who are guilty of any or all the Vices and Enormities herein before enumerated, that they forthwith cease from all such nefarious Practices, otherwise they may rely on Judgment without Mercy; as I am determined to punish with Rigour all such notorious Offenders, notwithstanding the impotent Threats of a certain little retailing Shopkeeper near the Corn*hills* Brazier, and others, Persons who I know never were blest with the best of Characters in political Matters; and who, if I hear any more of their Impertinence, shall endeavour to teach THEM Wisdom.

I DO hereby require, in Compliance with the good and wholesome Laws of this State, and for the Good of the Public, for whom I stand forth, That all who have left Butchering, Droving, Horse jockeying, Shoe-making, Sand-driving, and assum'd selling by Wholesale or Retail West India Goods, and all others in the same Business, and of Huxtering, that they forthwith open their Stores and Shops, and sell openly and publickly, Rum, Sugar, Molasses, Cotton-Wool, &c. &c. at the Prices stipulated by Law.

I DO further command and require all Meetings of Tories to cease from this Time, or else I shall take an Opportunity of breaking up their further gossippings at the Widows. And I do Caution the said Widow from permitting her Son going with any more Letters to Reading and Concord. I most affectionately return my Thanks to those free Sons

who gave me their Assistance this Day. I shall notify when I would be glad to see them again.

JOYCE, Junr.[1]

From an altogether different source we get another account of this affair. On April twentieth Abigail Adams wrote to John Adams, then in Philadelphia, as follows:

I hate to tell a story unless I am informed of every particular. As it happened yesterday, and to-day is Sunday, I have not been so fully informed as I could wish. About eleven o'clock yesterday William Jackson, Dick Green, Harry Perkins, and Sargent, of Cape Ann, and A. Carry, of Charlestown, were carted out of Boston under the direction of Joice junior, who was mounted on horseback, with a red coat, a white wig, and a drawn sword, with drum and fife following. A concourse of people to the amount of five hundred followed. They proceeded as far as Roxbury, when he ordered the cart to be tipped up, then told them if they were ever caught in town again it should be at the expense of their lives. He then ordered his gang to return, which they did immediately without any disturbance.[2]

Mrs. Adams left her letter open until the next day, and on the twenty-first added this paragraph:

Have now learned the crime of the carted Tories. It seems they have refused to take paper money, and offered their goods lower for silver than for paper; bought up articles at a dear rate, and then would not part with them for paper.[3]

The same day on which "Portia" — as John Adams was wont to call his wife — wrote the above letter, the following paragraph appeared:

A Soldier in the *Continental* Army, at Barracks No. 2, Cambridge, presents his Compliments to the Hon. PATRIOT, *Joyce*, jun. — and would be greatly satisfied, if his *Honor* would condescend so far as to pay *him* a Visit that Way — as he is much *Wanted*.

Cambridge Barracks, April 20th, 1777.[4]

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[1] Boston Gazette, 21 April, 1777, No. 1180, p. 2/3.

[2] Familiar Letters of John Adams and his Wife Abigail Adams, during the Revolution (1876), p. 262.

[3] *Ibid.*, p. 263.

[4] Boston Gazette, 21 April, 1777, No. 1180, p. 2/3.

A few days later Joyce Junior was once more heard from:

Messieurs Powars and Willis, Boston, April 23, 1777.

You are ordered to publish the within (to-morrow in your paper) at your peril. JOYCE, jun.

AS I have certain information that the AMORY's[1] and others, have very large quantity of Rum, Sugar, &c. in this town — and that many loads of these articles have been sent to Sherburn to the care of Capt. Newall of that place — and to other towns in the country, under pretence of sending them to the Continental army — and further, that some large retailers of English goods in this town, have a great assortment by them — that was saved by the other tories during the enemies being in possession of this town, and refuse to sell — notwithstanding the great want of all the before mentioned articles — I therefore give them this public notice that they conform immediately to the Laws of this State at their utmost peril.

I beg the good people of this State when any traders appear among them belonging to this town, offering more than the regulated price for any article they have for sale — that they immediately send me the particulars in a letter directed to me, left at Edes's office, Queenstreet.

N.B. I am glad to hear my advertisement of last Monday [21 April] has brought some persons to a sense of their duty. JOICE, jun.[2]

It is possible that the measures threatened and those actually carried into execution may have called forth some serious criticism; at all events, on May first the following satirical remonstrance appeared:

May 1, 1777.

WELL Mr. Joyce, jun. what have you been doing? How could you find it in your Heart to frighten 2 or 3 poor Women and Cart so cruelly five lunatick Tories, *only because they were enemies to their Country?* fie, fie! your Honour is certainly hard-hearted: why the whole

[1] The heads of the Amory family at that time were the three brothers, Thomas Amory (1722–1784) who graduated at Harvard College in 1741, Jonathan Amory (1726–1797), and John Amory (1728–1803). The two younger brothers formed the firm of Jonathan and John Amory. From the regularity with which the brothers took their afternoon walk along Orange Street, they earned the nickname of "the Three Cocked Hats" (Gertrude E. Meredith, Descendants of Hugh Amory, 1901, p. 109). Thomas Amory was an Addresser of Gage 8 June, 1774, and 6 October, 1775.

[2] Independent Chronicle, 24 April, 1777, No. 453, p. 3/3.

Town is dissolved in Grief; the Old Women do nothing but read the Book of *Martyrs*, and the Young Ones, the *Precious Song of the Babes in the Woods*. In seventy five no body had cause of Woe, we were then in a perfect State of Felicity; and even those that were so foolish as to quit the Town were generously allowed to carry Five Pounds with them, though they did not leave above 5000 behind them, to be plundered by our humane Friends in the British Army: I would ask you in a free and independent State, whether every Person has not a Right to do every Thing in his Power to Ruin the Country with Impunity, and Distress every Department by Monopolizing? You cannot deny but that they can, and have a Right to do it, and it is our Part to yield to them and suffer the Minor to swallow the Major.

A SOLDIER.

To the Hon. *Joyce*, jun.[1]

With one more extract we may bring to a close our account of Joyce Junior:

A CARD

A True Friend to America, compell'd by the Necessity of the Times, presents his Compliments to *Joyce*, *Jun'r*, and tho' he acknowledges the Method of extirpating Tories, would come better from Government, yet he apprehends the Reins at present so lax, that spirited Measures should be taken by some Well wisher to his Country, and one who will proceed in this Business with Order and Regularity. — He therefore earnestly calls upon this spirited Asserter of the American Cause, to proceed in such Manner as he, with the Advice of his Brethren shall think proper, to clear this Town of *all noted* and *suspicious Persons*, who are so injurious to this State in particular, and the United States in general, and who will sooner effect our Destruction by their secret Combinations, Consultations, and other diabolical Practices, than the whole Force sent against us by Great Britain. — This Country being once Free from these Pests to Society, he trusts in God, Mr. Howe, with all his mercenary Troops, will never be able to effect their Design.

The other Towns in this State, are also earnestly called upon, to exert themselves in the Salvation of their Country, by some Measures similar to those taken in this Town; and all Committees of Correspondence, Inspection, Safety and others, are desired to keep a strict Watch upon the Motions of these wicked designing Men.

The Intelligence we have had of burning the Stores at Danbury, is sufficient to rouse us from our present Lethargy, and I dare aver, many

[1] Boston Gazette, 12 May, 1777, No. 1183, p. 2/3.

of these internal Enemies would, with Pleasure, convey the British Troops to our most valuable Magazines. — A Word to the Wise is sufficient.[1]

It may safely be assumed that with the close of the Revolutionary War, the practice of tarring and feathering came to an end in Boston. Joyce Junior having become a familiar figure, it is possible that he continued to parade the streets on Pope Day, and so perhaps, after all, there may be some truth in the statements made by the author of the Reminiscences. But it would seem to be clear that Joyce Junior had his origin not in the celebrations on Pope Day, but in the bitter political feelings engendered by the Stamp Act. Why that particular name should have been chosen, and what significance there was in the appellation, are questions upon which some of those present can perhaps throw light.

Mr. JOHN NOBLE said he remembered having seen the name Joyce Junior in papers in the Suffolk Court Files.

Mr. NOBLE made the following communication:

In a previous communication on the Land Controversies in Maine, certain papers connected with four ejectment cases were printed.[2] These, taken from the numerous collections in the suits, were selected not for their bearing upon the issue involved — the title to the lands in question, — but for the light thrown by them upon the early conditions in the Pemaquid settlement and in frontier life, and because they contributed to local history and contained matters of general interest in different directions.

A few days ago there was received from Mr. William D. Patterson of Wiscasset, Maine, a copy of a Petition connected with those suits which he found in the Massachusetts Archives. This document, which explains itself, is presented to-day as an addition to my former communication. I have added a few depositions not before given, bearing upon the Petition, which are in the same line as those before selected, and, like them, chosen without reference to their effect on the legal issue. Two from which a brief extract was then made are now given in full, — to bring out additional points. As before, there are some taken *in perpetuam*, and a deed

[1] Boston Gazette, 12 May, 1777, No. 1183, p. 2/3.

[2] Publications of this Society, vi. 11-70.

or two. The taking of depositions *in perpetuam* seems to have begun as early as 1717, as appears by the petition, and to have continued at intervals for half a century. The latest, taken at the time of the trial, seem to forebode a litigation of indefinite duration.

The Petition brings out the bearing and importance of the depositions of a venerable woman printed in the former communication [1] and explains the vigor of the attack upon her failing memory. The Petition aimed to secure by legislative authority the admission of certain depositions taken fifty years earlier, but at that time excluded by the Courts for defect in the Caption. The Petition is as follows:

I.

To his Honor the Leiu^{t} Governor, the Hono^{ble} his Majesty's Council and the Hono^{ble} House of Representatives. —

The Petition of Hezekiah Egglestone of Bristol in the County of Lincoln — Humbly sheweth, That your Petitioner's Great Grandfather Richard Fullford formerly of a Place called Round Pond in said Bristol, about the Year of our Lord 1660 purchased a Tract of Land there whereon he lived, adjoining to a Plantation commonly called Muscongus, and belonging to the Family of the Peirces; that your Petitioner's said Great Grandfather lived on and quietly enjoyed the Premisses 'till the Beginning of the present Century, except the Interruptions given him by the Indians (in which Time the Deed of his s^{d} Land was lost) leaving Issue only one Son who was a Minor, and a Daughter who was your Petitioner's Grandmother and who married Samuel Martin, who as soon as the Troubles with the Indians were over again in 1715 settled said Lands, 'till he was beat off by the Indians in the War commonly called the three Year War between 1722 & 1725; that your Petitioner's said Grand father Martin after he had resettled said Lands, took the Testimonies of sundry ancient Persons in 1717, who formerly lived adjoining, to fix the Boundaries and supply the Loss of his Father in Law's Deed of said Land; that afterwards Viz. in 1739 your Petitioner's Great Uncle Viz^{t} Francis Fullford the only Son of said Richard again settled said Lands, whose Tenants have been in constant Possession 'till the last War; and lastly that your Petitioner is now in Possession of Part of said Tract — But so it happens that your Petitioner's said Grand father thro' Ignorance of the Law, had the said Testimonies taken before one Justice of the Peace only and put on Record ad per-

[1] Naomi Annis. See the Publications of this Society, vi. 33–35.

petuam Rei Memoriam, and whereas sundry Persons without any Pretence of Title have trespassed and settled themselves on said Land cleared and brought too by your Petitioner's Ancestors at great Peril of their Lives and Expence of Labour, your Petitioner is unable to recover the Possession of said Land unless relieved by your Honors: Wherefore your Petitioner humbly prays that your Honors would confirm or make valid in Law said Testimonies or otherwise grant him that Relief which to your Honors shall seem meet — And your Petitioner as in Duty bound shall ever pray

HEZEKIEH EGGLESTON[1]

On the Petition of Hezekiah Egglestone In the House of Representatives Nov. 2 1770 Read and Resolved that the Prayer be so far Granted that the Justices of the Inferior Court of Common Pleas or the Justices of the Superior Court of Judicature before whom any action is or may be depending Relating to the Lands mentioned in said Petition be Impowered to admit the Testimonies ^A Refered to in said Petition to be plead as Evidence in the Case as valid in the Law the failure of the Taking the Testimonies before Two Justices Quorum unus notwithstanding

Sent up for Concurrence

T. CUSHING *Spk^r*

In Council Novr 7th 1770 — Read & Concurred Sent down for Concurrence as taken into a new Draft

JN^o^. COTTON *D. Secry*

In the House of Representatives Novr 8 1770 Read & nonconcurred & the House adhere to their own Vote with Amendment at A viz insert *of Morrice Champney Richard Pearce Senr & John Pearce*

Sent up for Concurrence

T. CUSHING *Spk^r*

In Council Novr 8, 1770

Consented to

Read and Concurred

JN^o^. COTTON *D. Secry*[2]

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[1] With the Petition were filed certified copies of — (1) Deposition of George Pearce, 7 February, 1720–21; (2) Deposition of John Pearce, 7 February, 1720–21; (3) Deposition of Morrice Champney, 29 November, 1717; (4) Deposition of Richard Pearce, Sr., and John Pearce, 29 November, 1717, all recorded with Essex Deeds, libro 87, folio 257, *ff.*

[2] Massachusetts Archives, cxviii. 458–463.

The litigation was evidently prosecuted with great vigor, uncommon minuteness of detail, and laborious strenuousness, carried as it was through successive courts with even a resort to the General Court. Rather curiously, while in some of the printed accounts of Pemaquid it seems to have been known that such suits were started, an uncertainty is expressed whether they were ever prosecuted further, and no knowledge of their results appears. The cases in themselves, incidentally, are full of local history. That with all the hard battling they were conducted with a good degree of professional courtesy without any concession of legal rights is shown by many agreements, of which here are a couple:

II.

In the case of Bodkin v Randall it is agreed that the Depositions heretofore taken to be used in this case may be used on the Tryall at the Sup^{r} Court in the same manner as tho' Taken & filed in s^{d} Court, whether originally taken to be used in s^{d} Infer^{r} or Sup^{r} Court —

DAVID SEWALL
T. BRADBURY

JULY 1770 at FALM^{O}.[1]

The same agreement in the cases of Yeats v Bodkin & Eliot v Bodkin.

D. SEWALL
T. BRADBURY.

III.

Lincoln ss. Pownalborough Court September Term 1769.

Thomas Bodkin plt v^{s} James Yates Defendant.

The Council on both sides agree that all Depositions taken to be used in this action since the Commencement thereof may be used on the Trial at the Superior Court as well as if they had been lodged in this Court, and made part of the Case, save any Exceptions that may be made to the Caption thereof

THEOP^{S} BRADBURY for the plt
DAVID SEWALL for the Deft

A true Copy
Examin'd by JON^{A} BOWMAN *Cler.*[2]

[1] Suffolk Court Files, dcccxciii. 139495:14.
[2] *Ibid.* dcccxciii. 139495:13.

The evidence, judging from the little presented here, must have been sufficiently complicated and perplexing, and memory and tradition freely invoked for the establishment of facts. Some depositions are added now, mainly for their bearing upon the Petition, but also, as before, as bringing out vividly many scraps of local history, accounts of families of settlers, and the rugged conditions of frontier life in the early times. They also have some significance in legal points.

IV.

John Peirce aged about Seventy four years, Testifies and says that about the year of our Lord 1722 the Indian War breaking out at the Eastward, this Deponant went with a Vessell and a Number of People to the Eastward and Brought from thence his Father Richard Peirce and Family from a place called Muscongus, where this Deponents [s^{d} [1]] Father and Family then lived that this Deponent there saw Samuel Annis who then lived at a place called Round pond, that the s^{d} Annis came on Board this Deponents vessell, that this Deponent asked s^{d} Annis to bring his Family and Effects on board and Come away for fear of the Indians, That the s^{d} Annis declined and said he would go some other way; That this Deponent Came away & left s^{d} Annis at Round pond This Deponent further Testifies that he knew Hezekiah Eggleston now of Bristol in the County of Lincoln and that he is the reputed son of Hezekiah Eggleston late of Marblehead dec^{d} by Sarah his Wife, both of whom this Deponent knew, that the said Sarah was the reputed Daughter of Samuel Martin, late of Marblehead dec^{d} by Elizabeth his Wife, Both of whom this Deponent knew; that the s^{d} Elizabeth was the Only reputed sister of Francis Fullford late of Marblehead whom this Deponent also knew: that the said Elizabeth & Francis were the only reputed Children of Richard Fullford formerly of a place called Round pond in the Eastern part of This Province, By his Wife Elizabeth: That the said Elizabeth was the only reputed Daughter of Richard Peirce formerly of a place called Muscongus in the Eastern Part of this Province, who was the Deponents reputed Grandfather. JOHN PEARCE

Essex ss., Marblehead, deposition taken 15 August, 1768, before W^{M} BOURN, *J. Pacis*

A true Copy Examin'd by
JON^{A} BOWMAN *Cler.*[2]

[1] Interlined in the original. [2] Suffolk Court Files, dcccxci. 139413: 42.

V.

John Pearce of Marblehead in the County of Essex aged about seventy six years testifieth & saith, that he claims Lands at a place called Miscongus in the Township of Bristol in the County of Lincoln by Heirship under his Grand Father Richard Peirce That he knows Thomas Bodkin of Boston in the County of Suffolk and has heard that he Bodkin was in Gaol in Salem in the County of Essex about twenty years ago, but does not know whether said Bodkin swore out of Goal or not. That about the year A. D. 1737 he the Deponent was at round Pond so called in said Bristol & saw one James Bayly there who told the Deponent that he lived there with his Family

Quest. Are you any ways interested in Lands at round pond under Richard Fulforth
Answer — I am not.
Quest. how was Samuel Annis settled on the Land at round Pond — Answer — when I was there he told me he was settled there by Samuel Martin June 28, 1770

} JOHN PEARCE

Essex ss., deposition taken 28 June, 1770 before ISAAC MANSFIELD *Justic ad Pacem &c.*[1]

VI.

The Deposition of Jeremiah Smith of Milton in the County of Suffolk aged about 62 years Testifyeth and Saith, That about the Years 1730 or 1731 when Coll David Dunbar began a Settlement at Pemmaquid I and others were employed by a Number of Gentlemen to go to the Eastern parts of this Province; We went Northeast of a Place called Round Pond some Miles, at a place called Smelt-Cove, the said Gentlemen I went with had engaged to take Lotts under Coll David Dunbar; I first went & work'd at said Smelt-Cove; a few weeks after my going down into those parts I took a Lott for my Self at Round pond adjoyning thereto; I lived there about two years or more & planted an Orchard. When the News came that His Majesty had Yeilded up the Land (said Dunbar proposed to Settle) to the Proprietors of said Land, and gave to said Dunbar the Government of the Province of New hampshire, I the Declarant found that I was disappointed of my Expectation of a Lott under said Dunbar, then I made Enquiry who to purchase said Land from, and I was informed that M[r] Shem Drowne & Partners claimed the Lands at Round Pond accordingly I went to Boston and

[1] Suffolk Court Files, dcccxci. 139413: 41.

applyed myself to said Shem Drowne, & he told me, Major Savage was concerned in said Lands, on that I went to Major Savage & he told me, that Capt Phillips of Charlestown was a part Owner with them, and I went to said Phillips, and by them all I understood that the Lands claimed by them were not yet divided, and they could not so well sell any particular Lott till their Tract of Land was divided; I was urged by all the last above named Gentlemen to continue at Round Pond on the Lott I had taken up under said Dunbar, and when they Divided their Interest I should be encouraged and have the said Lott I made Choice of at round pond aforesaid at a Moderate Price. But I did not choose to live at this uncertainty & I moved my [Family] from Round Pond to Boston: and when I left Round Pond, I left one James Bailey, who had lived at Round Pond sometime, with his Family, in the house I lived in; and the Declarant at that time never knew or heard of the name of Thomas Bodkin, and am well assured no such man of that name lived any whare near round Pond aforesaid. The Declarant in the Year 1768 being desired by Mr Joseph Henshaw to give his Evidence, and he then understood by the Questions asked him, that they respected the Right of one Martin and Fulford, those men I never knew, but to the best of my Remembrance I heard one Morse say something about said Fulford & Martins claiming Lands to the Eastward. As I am now called upon to give Evidence in the same Cases now depending, if there should happen any Material difference it must arise from my not well understanding the meaning of the Questions putt to me, but on the best Recollection I have now as far as my Memory will admitt, fully answered the Questions now putt to me according to Truth.

Q. The Declarant being asked who the Gentlemen were that first employed him to go to the Eastern parts? He answered, Messrs Johonnott, Job Lewis, Esq Sigourney Crompton & Pitts &c., to whom were laid out Lotts of two acres each under Coll: Dunbar.

Q. The Question being Asked, what kind of building he built, when he first went down to Smelt-Cove? he answered It was only a Camp, at which place he found a Quantity of Nails & Hinges.

Q. He was asked, Whether the above Gentlemen told him they had bought Land of Richard Peirce, or did he know of said Right at that time? he answered They Did not, nor did he know of said Right at that time, to his best Remembrance.

Q. He was Asked Whether he knew of any particular Claim of Fulford & Martin to Land in those parts? He answered He did not know, nor does he know at this Day.

JEREMIAH SMITH.

BOSTON May 25, 1769.

Suffolk ss. Boston, deposition taken May 25, 1769 before BELCHER NOYES *Justice of Peace.*[1]

VII.

Mary Cowell aged about Sixty four Years, testifies and says that about Fifty Years ago, she this Deponent lived at a place called Muscongus at the Eastward, about seven or Eight Years; That while she lived there she knew Samuel Annis and his wife, who then lived at Round pond, on a Farm where the people then informed this Deponent old Richd Fullford formerly lived; that she This Deponent nursed s^{d} Annis's Wife in Child Bed at Round pond and was knowing to their Circumstances and Affairs and that s^{d} Annis was sent and settled on s^{d} Farm at Round pond by Samuel Martin. This Deponent further Testifies and says that the Land at Round pond and Thereabouts belonged to s^{d} Fullford's Children as This Deponent always understood from the People who then lived their; and that one of said Children was Wife to s^{d} Martin, that in the summer season this Deponent with William Hilton Richd Peirce and Samuel Annis and their Familys used to go over to Monhegan Island for fear of the Indians and return back again in the Fall, that the s^{d} Samuel Martins used to make Fish likewise on Monhegan Island On Account of the Indians. This Deponent further Testifys, that she does not remember any other Family than the above, living near there at That Time; That the Lands at Round [pond[2]] and Muscongus were said to belong to the Families of Fullford and Peirce and no other person ever Claimed any of Those Lands at that Time as she ever heard of. This Deponent further Testifies that at that Time there were a Number of Cleared Farms at Round pond and New Harbour, whre old settlers had lived, and that the people then living there used to Cut Grass on s^{d} Farms, and further this Deponent saith not.

MARY COWELL

SUFFOLK ss. BOSTON August 19th 1768.[3]

VIII.

I Robert Sproul of Bristol in the County of Lincoln aged about Forty six years testify and say that about the year 1735 I went to Live at Pemaquid from that Time to this have lived there except the Indian Warrs. That three or four years before Louisbourg was taken the first

[1] Suffolk Court Files, dcccxxii. 139469: 32.

[2] Interlined.

[3] Suffolk Court Files, dcccxciii. 139532: 37.

Time [1] one Nathaniel Bull lived at the Southwesterly part of Roundpond in a house which stood in a field which John Randal now posseses and improves, how long he had then Lived there I know not, but it was then the generall Reputation that he was a Tenant there under Thomas Bodkin. I further declare that Three or four years at least before Louisbourg was taken Hugh Boyd lived at said Roundpond & to the best of my knowledge & remembrance twas in the year 1742. he came to Live there and he came in the Spring of the year and am personally knowing and Certain that John McFarland built a house there for Thomas Bodkin now of Boston sometime in Fall before the year 1742. to my best remembrance as I saw him to Work on it and heard him and said Bodkin agree and make a Bargain about building it, s^{d} Bodkin being then at the Eastward at Roundpond or Pemaquid and 'twas in the same year in which I Built a house at s^{d} Roundpond for Isaac Little Esq. and Hugh Boyd I am certain was put into s^{d} House built by s^{d} McFarland for s^{d} Bodkin as Tenant to said Bodkin and Lived there severall years after till drove off by the Warr and then he went to Pemaquid Fort and that his fences inclosed the place and said House stood in the Field where James Bailey since had a House and field and lived within four years past, (which house has been lately burnt as 'tis said) and said Boyd had 8 or ten Acres, at Least fenced and under improvement there. I further declare that the house I Built for s^{d} Isaac Little was in the Field now possessed and improved by Simon Eliot, next to the Northeastward of s^{d} Boyds field and That at the same time one John Morril lived further to the Northeastward of said Pond, his house was on the Land and within what is now or lately has been inclosed, possessed and Improved by James Yeates, I further declare that about the Time Louisbourg was delivered up to the French s^{d} Bodkin removed himself and Family into the house that Hugh Boyd Lived in at round pond, and lived there severall Years till the Last War drove him off into Pemaquid Fort and he was severall Times there while Bull and Boyd lived there and when s^{d} Bodkins was drove off by the Indians he left his Cattle and Horses there. and further saith not.

ROBERT SPROUL

I further say that I know a Hill called pancake hill which has gone By that name eversince I knew it viz above Twenty years, it ly's about half way between Pemaquid Falls and Roundpond. I also know a place called miscongus and Miscongus falls or Brook and that my Father help'd build a house a little to the Northeastward of s^{d} Miscongus falls,

[1] 1745.

for one Richd Peirce, and the Land to the Northeastward of s^{d} Falls it is commonly called Miscongus and by general Reputation did belong to the Family of the Peirces.

ROBERT SPROUL

I Further say that when s^{d} Bodkins put Boyd on his place as aforesaid he bought a Stock of Cattle of Joseph & Clement Orr and paid for them with half a Sloop of Sixty Tons or upwards which he had used before to Carry provisions in to roundpond, & put said Cattle on s^{d} Farm.

ROBERT SPROUL

Sworn in Court

Att JON^{A} BOWMAN *Cler*

It is agreed by both parties that this Deposition be used in all the Cases wherein Thomas Bodkin is Plt. against James Bailey John Randall, James Yeates and Simon Eliott, at the Superior Court as though taken particularly for each case.

Att JON^{A} BOWMAN *Cler*

A true Copy

Exam^{d} by JON^{A} BOWMAN *Cler*[1]

IX.

John Cock aged about Seventy Eight years declares and Says that he was born at the Eastward parts of New England on the Eastern Side of Kennebeck River and Lived there till he was driven away by the Indians about the year [176[2]] 1676 that while he Lived there he very well knew a Man Called Mr Elbridge but does not well remember his Christian Name but he was a Small man in Statue that Said Elbridge Lived at Pemaquid and was accounted one of the principal Men in those parts, and that he has often Seen S^{d} Elbridge at his Fathers House he also well remembers that Richard Paddishall who used the Coasting Trade, had an Island on S^{d} Kennebeck River, on which Island he lived for many years, & his Father before him, which Island was Called Paddishalls Island, and that he never heard S^{d} Paddishall Laid any Claim or pretended any Right to Damiscove Island till Since the Last Indian War that he well Remembers that one Trick, one Hunniwell, and Soward, and Richard Reading lived on S^{d} Damiscove Island and had been old Settlers there, and that about Sixty years ago The Declarant

[1] Suffolk Court Files, Cumberland and Lincoln, July, 1770, dcccxci. 139413: 52.

[2] Cancelled in the original.

went a fishing from S^{d} Island and well remembers that there were Seven fishing boats that Continually used S^{d} place, and that he never heard that any of the aforesaid Persons Ever pretended any Right thereto but only used it as a fishing place which they Esteemed free for any person, that he never knew nor heard that the afore^{sd} Richard Pattishall Ever Lived on S^{d} Damiscove Island, but he well remembers that the afores^{d} Richard Pattishall Carryed his family from S^{d} Island in Kennebeck [River[1]] to pemaquid, where he was killed as afterwards he heard, & further [saith not[1]]

Boston Sepr 18=1736.

his
John × Cock
mark

Suffolk ss Boston Sepr 18: 1736 — John Cock appearing made Oath to the [trut[2]] truth of the above declaration by him Subscribed Taken in perpetuam rei memoriam

Before Samuel Checkley } *Justice pacis*
Wm Tyler, } *Quorum unus*

[*Endorsed*]

John Cocks deposition —
— in perpetuam —
1736.[3]

X.

Tabitha Sergeant aged about sixty years. Testifies and says that about Twenty Eight or Thirty years ago Nathaniel Bull, then her husband, but now deceased, with herself and five children, were sent by Thomas Bodkin of Marblehead Brewer to the Eastward, to Live on a farm of said Bodkin at a place Called Round pond. This Deponent further Testifies and says, that the Land at and about Round pond, was always said to belong, to the said Fullfords Children, and that the Lands at Muscongus, belonged to the Peirces. This Deponent further Testifies and says that she with her Husband and Children Lived there about Eight or Ten years and that about Twenty Years ago, as near as this Deponent can Remember, her said Husband Nathaniel Bull was Killed by the Indians with twelve or fourteen other people. This Deponent further Testifies and says, That Mr Hugh Boyd at that Time was another Tenant of s^{d} Bodkin's and lived in a house s^{d} Bodkin built for him, on the Old Farm where s^{d} Fullford formerly lived and that John Morrill

[1] Interlined in the original.
[2] Cancelled in the original.
[3] Suffolk Court Files, dcccxciii. 139498: 29.

Lived toward the Northerly End of the pond, and soon after our going there sold his Stock and Improvements to s[d] Bodkin, and went away. This Deponent further Testifies and says that James Yeates did not Live at Round pond, or Muscongus, when this Deponent went to Live at Round pond, & further saith not.

her
TABITHA F SERGEANT
mark

Suffolk ss. Boston October 23[d] 1767 The within Mentioned Tabitha Sergeant made Solemn Oath, that the within written Deposition by her Signed, was the Truth, The whole Truth and nothing but the Truth, taken in perpetuam Rei memoriam at the Desire of M[r]. Joseph Henshaw of Boston

Before us SAMUEL WELLS } *Justices of the Peace*
JOHN HILL } *Quorum Unus*

Septem[r] 1[st] 1768 } A True Coppy from the originall Deposition now on file in the Secretarys Office.

Attest JN° COTTON *D Sec[a]ry*

A true Copy Examin'd by

JON[A]. BOWMAN *Cler* [1]

XI.

Thomas Drowne aged near fifty five Years made solemn Oath that he was present and [see [2]] did see James Bayley duely execute this lease (annexed) at the time the same bears date & that he with James Pitson jun[r] | since deceased | subscribed their names as witnesses thereof at the Same time before mentioned & that he the said Thomas wrote the said Lease

THOMAS DROWNE

Suffolk ss Boston August 1, 1770. The said Thomas Drowne made Oath to the above written affidavit taken to perpetuate the memory of the thing before

RI DANA *Just of the Peace & of the Quorum.*
BELCHER NOYES [3] *Justice o' peace*

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[1] Suffolk Court Files, dcccxci. 139413 : 48. [2] Cancelled in the original.

[3] Belcher Noyes, son of Oliver and Anne (Belcher) Noyes, was born in Boston 10 October, 1709, graduated at Harvard College in 1727, held a commission of the Peace and Quorum, married Ann Williams 3 March, 1736, and died in Boston in November, 1785, aged 76. His widow died in Boston 3 April, 1790, aged 82. Mr. Noyes's mother was a sister of Governor Belcher (Boston Record Commissioners' Reports, xxiv. 63, xxviii. 5, 198; Boston Town Record of Deaths; Paige's History of Cambridge, p. 486; Whitmore's Massachusetts Civil List, pp. 129, 130, 131).

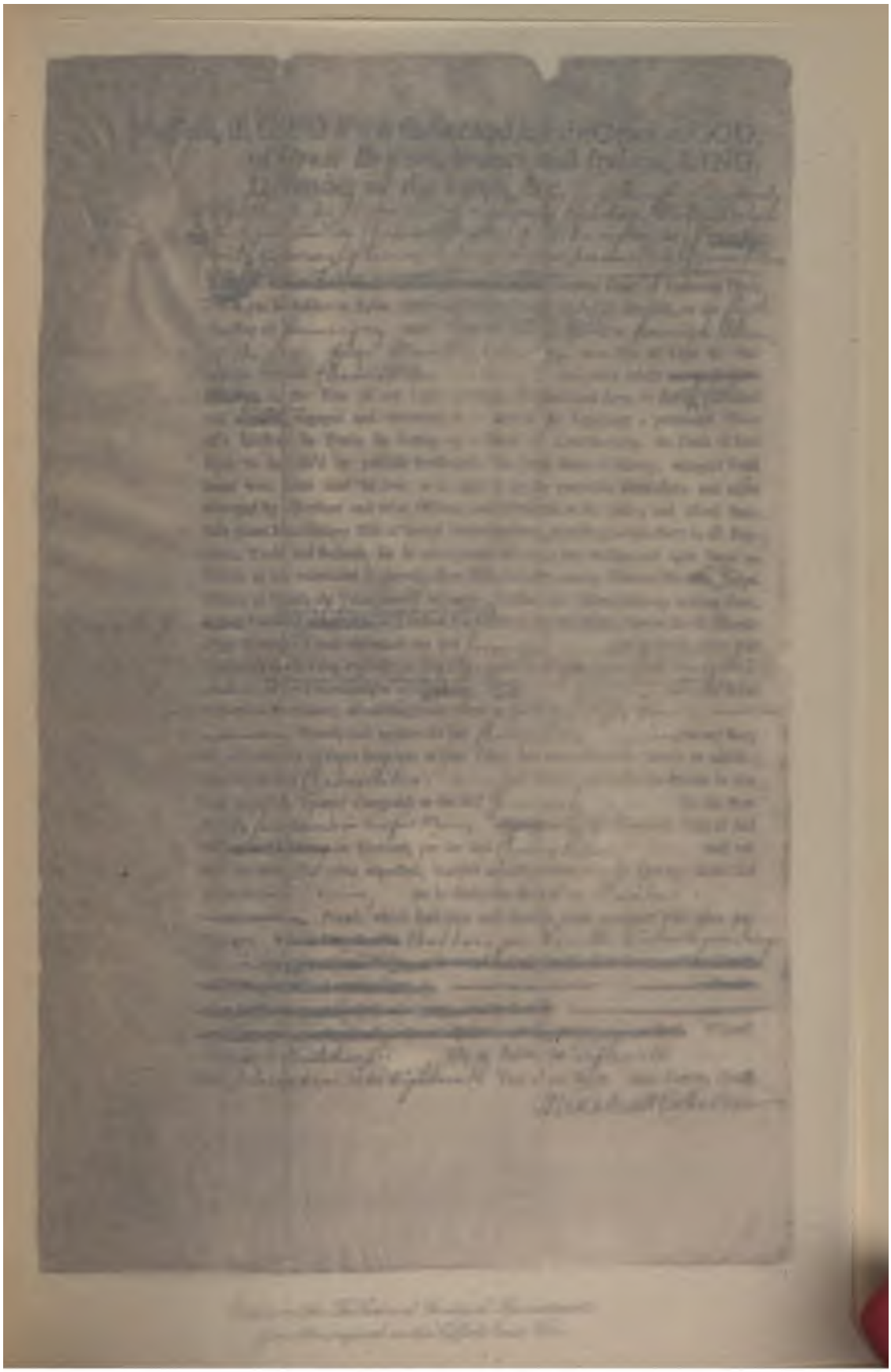
A true copy of the Original lease and Affidavit d^{d} Mr Browne by Order of Court
3^{d} Sep^{t} 1771 Att^{t} NAT HATCH *Cler*[1]

XII.

To all People To whom these presents shall Come I Francis Fulforth of Marblehead in the County of Essex Fisherman, send Greeting.

Know ye, That I, the said Francis Fulforth, for and in Consideration of the sum of One hundred Pounds in Money to me in hand at and before the Ensealing and Delivery hereof, paid by Thomas Bodkin of Marblehead. Brewer The Receipt whereof I do hereby acknowledge, and for divers other good Causes and Considerations, me hereunto moving have remised, Released, sold, and for ever quit Claimed and by these presents, for myself and my heirs, do remise, release, sell, and for ever Quit Claim unto the said Thomas Bodkin, and to his heirs, and Assigns forever. All that my Lands Scituate lying & being in the County of York in the Eastern parts of this Province saving what I have already sold to Isaac Little Esq. which desended to me from my Father Richd Fulforth dec^{d} and my Mother Elizabeth Fulforth dec^{d} part of which Lands lyeth at Roundpond Part at New harbour, part at Muscongus, and part on Hog Island, and part at Damariscotta, be the same Lands more or less in Quantity, or better or worse in Quality, &c Together with all the Estate, Right, Title Interest, use, Property Claim and Demand whatsoever, of me the said Francis Fulforth, which I now have or at any Time, heretofore had, of, in and to the aforementioned premises, with the appūrces, or to any part thereof, or which at any Time heretofore has been held, used, Occupied, or enjoyed, as part or parcel of the same. To Have and to Hold all the afore granted and bargained premises, wth the Appūrces, to him the s^{d} Thomas Bodkin, his heirs. and Assigns forever with the reversion and reversions, remainder and remainders thereof or any part or parcel thereof forever, So that neither I. the said Francis Fulforth, nor my Heirs, nor any other person or persons claiming from, by, or under me or them. or in the name, Right, or Stead of me or them, shall or will by any ways or means have, Claim, Challenge, or Demand, any Estate, Right, Title, or Interest of, in, and to the aforesaid premises with the Appūrces, or any part or parcell thereof for ever: But I, The said Francis Fulforth do for myself my heirs, Executors, and administrators Covenant To and with the said Thomas Bodkin, his heirs and Assigns, the said granted and Released premises,

[1] Suffolk Court Files, dcccxciii: 139532: 12.



with the profits, priviledges, and Appūrces thereto belonging, to the said, Thomas Bodkin his heirs and Assigns forever, to Warrant, secure and Defend against the Lawfull Claims and Demands of any person, or persons, claiming under me, or my heirs as aforesaid, forever by these presents. In Witness whereof the s^{d} Francis Fulforth, have hereunto set my hand and seal this sixth day of June anno Domini One Thousand Seven hundred and thirty nine and in the Twelfth year of his Majesty's Reign.

Signed Sealed and Delivered in presence of
JOHN BRIDGES
EDWARD BOWERS
MARY COLLINS

signum FRANCIS × FULFORTH Seal

ELIZ^{A} × FULFORTH Seal

Essex ss. June 11th 1739. Personally appear'd before me the within named Francis Fulford and owned this Instrum^{t} to be his free act and Deed.

Coram ABR: HOWARD *Just. Pacis*

York ss. Receved Octo^{r} 8th 1739 And Recorded with the Records for Deeds in s^{d} County. Lib^{o} 21, Fol^{o} 119, Attest. JER. MOULTON *Reg^{r}.*

A true Copy Examin'd by JON^{A} BOWMAN *Cler.*[1]

Mr. ANDREW MCFARLAND DAVIS exhibited a photographic copy of a unique form of Writ used in the Land Bank cases, the original of which is in the collection of papers restored by the Massachusetts Historical Society to the Suffolk Court Files.

Mr. ALBERT MATTHEWS exhibited a parchment containing the Articles and the names of the members of a "Society of Young Men mutually joining together in the Service of God," formed at Dorchester, Massachusetts, on the twenty-fifth of December, 1698. About three hundred and fifty names, many of them autograph signatures, are attached to the document. The Society apparently had no distinctive name, and, though it seems to have existed for nearly a century

[1] Suffolk Court Files, Cumberland and Lincoln, July, 1770, dcccxci. 139, 413: 13.

and a half, there appear to be no allusions to it in the histories of Dorchester.[1]

Mr. HENRY H. EDES read an extract from the Calendar of State Papers relating to a Petition to Cromwell in 1655 from William Franklin, an early inhabitant of Ipswich, Newbury, and Boston. The petition states that in 1651 Franklin set forth a small ship from Boston to Palm Island, that the master of the ship was surprised at Fayal by Prince Rupert, that the ship and lading were seized, and that the men were "captivated into slavery." It also states that in 1653 goods sent to England to pay Franklin's debts were taken by the Hollanders, and also his papers. The Petition was referred by Cromwell to the Council of State, which recommended that "some employment in the Custom House or in some other way suitable to his experience" be bestowed upon Franklin.[2]

Mr. EDES also communicated a letter written from Liberty,[3] Virginia, by John Washington to Henry Bromfield,

[1] The parchment is owned by Mr. Charles J. Means of Boston, a son of the late Rev. James H. Means of Dorchester. The document will be printed in the New England Historical and Genealogical Register for January, 1906.

[2] Calendar of State Papers, Colonial Series, 1574–1660, pp. 424–426. For references to William Franklin, who died in London in 1658, see Boston Record Commissioners' Reports, ii. 68, 79, 84, 86, 89, 97, 98, 99, 104, 105, 110, 115, 117, 153, 165, 170, 181, 187, 210; Suffolk Deeds, iii. 290; Suffolk Probate Files, no. 188; Felt, History of Ipswich, p. 11; Coffin, History of Newbury, p. 302; Savage, Genealogical Dictionary of New England, ii. 201.

[3] The only town in Virginia at that time named Liberty was in Bedford County. It is now Bedford City. Mr. Stanard writes:

I should say that the letter was certainly not written from Liberty, Bedford County, but from some farm named Liberty close to Leeds on the Rappahannock River in Westmoreland County. If a lot in Leeds was sold one day, it certainly could not have been known on the next day in Bedford County.

Mr. Stanard's conjecture is doubtless correct, and perhaps the Liberty from which the letter in the text was written was identical with the Liberty Hall, Westmoreland County, whither John Augustine Washington addressed a letter dated 1 June, 1776 (see p. 269, below). It may be added that "Liberty Hall" was then a favorite name in Virginia for an estate, as there were at that time no fewer than three estates so called: the Liberty Hall in Westmoreland

Jr., of Boston, referring to some matrimonial events in the Washington family. John Washington[1] was a son of Robert[2] and Sarah Washington, and a descendant of Lawrence Washington the immigrant, who was a brother of John Washington, the ancestor of George Washington.

JOHN WASHINGTON TO HENRY BROMFIELD, JR.

LIBERTY July 2d 1780

MY DEAR SIR

I am now seated to return you thanks, for your agreeable favor of the 25th of May, & am truly sorry for your Misfortunes, but perhaps, as you observe, they may be intended for some happy purpose, (as I make no doubt they are) & am certain they can never happen at a more fortunate period than in the early time of a mans life, when from calm reflection & the exercise of his reason, he is then able with, fortitude and resignation, to bear up under them, as I find my friend has done — & I hope he will never want that resolution necessary to convey him Cheerfully through all the precarious, & uncertain Vicissitudes, that too often attend this life — & be assur'd that whatever situation of life you may be in, whither, fortunate, or unfortunate, I shall always be happy to hear from so worthy a friend, *but more so, to see him.* as prosperity, can never constitute happiness, so neither can adversity make unhappy a Mind like yours —

I have now the pleasure to inform you that my Wife, the Girls, the family, & myself are tollerably well but since you left us have been very Il myself, my little son Tommy had very near lost his life from

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County, just mentioned; a Liberty Hall in King William County, which belonged to the Claiborne family (Virginia Magazine, i. 320); and a Liberty Hall in Essex County, which belonged to the Garnett family (William and Mary College Quarterly, viii. 253).

[1] In 1782 John Washington owned twenty-eight slaves (Virginia Magazine, x. 235). His will was dated 3 July, 1785, and proved 26 June, 1787. He had at least seven children: (i) William Henry, (ii) Thomas Lund, (iii) Sarah, who married Robert Harper, (iv) Robert Townshend, (v) Louisa Ffossaker, (vi) John Territt, (vii) Mary Constantine. The executors of the will were Henry Washington, a nephew of the testator, and William Fitzhugh of Chatham, a grandfather of Mrs. Robert E. Lee. For this information about John Washington and his children, we are indebted to the courtesy of Mr. William G. Stanard of the Virginia Historical Society.

[2] Robert Washington died 13 May, 1765 (William and Mary College Quarterly, v. 209, 210). His will, Mr. Stanard writes, was proved 24 September, 1765.

a fall out of the Cherry Tree, but is now getting well — nothing extraordinary in this Vicinity, has happ^{d} with respect to domestick Occurrences since your departure, except that your Acquaintance M^{r} T: Hungerf^{d} [1] was marry'd a few days ago to Miss Nancy Washington,[2]

Mr Robert Harper of Alexandria and my Daughter, Sally, I expect will be Marryed about the first of Sep^{r}, & will settle in the Town of Leeds,[3] where he proposes to carry on the Mercantile Business. Col^{o} Jett,[4] Mr Harper, another Genl and myself have joined in partnership each to put into stock, five, or Ten thousand pounds, under the direction of Mr Harper, now shou'd it suit you, to become a partner with us, it wou'd give me particular satisfaction, we propose carrying on a snug Trade without any Risk — I think business may be done in Leeds, to as great advantage as any where, I have purchased one house & lot, & we shall I expect, at Col^{o} Jetts store house on the water near the warehouse, make a fine Warf, on which we intend to build a large, Warehouse, for the Reception of Tob^{o} Grain, Goods &c — your Acquaintance Mr Holland [5] wants to sell his house & lot in Leeds — the lot & house where your fr^{d} Mr Andrew Crawford [6] lives, was sold yesterday & purchased by Mr Pou, a French Genl I wish it may not brake poor Crawfords heart, I had some thoughts of buying them myself, & did bid, but upon reflection thought it Cheeper, & more Convenient to purchase the lot upon the Bank near the Warehouse

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[1] Perhaps the Thomas Hungerford who in 1782 owned twelve slaves (Virginia Magazine, x. 231).

[2] Four lines have here been crossed out.

[3] The present Leedstown, on the Rappahannock River, Westmoreland County, Virginia. In his Old Churches, Ministers and Families of Virginia, Bishop Meade writes:

Leeds was once a place of note in this part of Virginia. It was doubtless named, either by the Fairfaxes or Washingtons, after the town of Leeds, in Yorkshire, near which both of their ancestral families lived. . . . For one thing it deserves to retain a lasting place in the history of the American Revolution. As Boston was the Northern, so Leeds may be called the Southern cradle of American Independence. This was the place where, with Richard Henry Lee as their leader, the patriots of Westmoreland met, before any and all others, to enter their protest against the incipient steps of English usurpation. At this place did they resolve to oppose the Stamp Act, nor allow any citizen of Westmoreland to deal in stamps (ii. 164).

[4] Perhaps the Thomas Jett who in 1782 was County-Lieutenant of Westmoreland, and who owned fifty-three slaves (Calendar of Virginia State Papers, iii. 252, 273, 330, 362, 365, 463; Virginia Magazine, x. 231).

[5] Perhaps the William Holland who in 1782 owned thirty-one slaves (Virginia Magazine, x. 231).

[6] Perhaps the Andrew Crawford who in 1782 owned ten slaves (*Ibid.* x. 230).

No News but what I imagine y^{r} have heard before this, I long much to hear a confirmation of the arrival of the French Fleet,[1] — I shall be extremely glad to hear from you as soon as possible, you did not say in your letter to me when you intended to see us, Certainly you will do us that favor, for be assured it wou'd give me the highest satisfaction, to see y^{r} at Liberty — relye on it there kneeds no particular Season to call to mind the remembrance of so Valuable an Acquaintance, having no thing more to add I shall conclude with telling y^{o}. I am joind by my Wife & Daughters in Sincerely wishing y^{r} every happiness this life can afford, & believe me to be with great regard

Dr Sir y^{r} affec. fr^{d} & Ob Servt

JOHN WASHINGTON

[*Addressed*]

HENRY BROMFIELD. ju^{r} Esqr
p^{r} post Boston

The Hon. WINTHROP MURRAY CRANE of Dalton and Mr. THORNTON KIRKLAND LOTHROP of Boston were elected Resident Members.

[1] The report was premature, as Rochambeau did not anchor in Newport Harbor, Rhode Island, until July twelfth (Narrative and Critical History of America, vi. 499).

MARCH MEETING, 1903.

A STATED MEETING of the Society was held at No. 25 Beacon Street, Boston, on Thursday, 26 March, 1903, at three o'clock in the afternoon, the President, GEORGE LYMAN KITTREDGE, LL.D., in the chair.

The Records of the last Stated Meeting were read and approved.

The CORRESPONDING SECRETARY reported that letters had been received from the Hon. WINTHROP MURRAY CRANE of Dalton and Mr. THORNTON KIRKLAND LOTHROP of Boston accepting Resident Membership.

Mr. CHARLES K. BOLTON read the following paper on an incident of the battle of the Brandywine.

The morning of the eleventh of September, 1777, dawned hot and sultry, with a damp haze over the meadows which border Brandywine Creek. The American army under Washington lay in the fields on the northern bank of the stream, with woodland on the right and hills and cataracts to the left. Toward the woods and Birmingham Church, General Sullivan was stationed. Toward the left, General Armstrong with a smaller force added strength to the natural barrier formed by the torrent. In the centre, facing Chad's Ford, Wayne commanded the artillery, with Greene upon a rising slope at the rear.

The British army lay to the south of the Brandywine. The Hessian troops under Knyphausen were face to face with General Wayne, with Chad's Ford between them. The plans of Washington depended upon knowing the position of Cornwallis, who held the rest of the British army under his command. Early in the day there came a report that Cornwallis was marching eighteen miles up the southerly bank of the Brandywine, to cross the two forks beyond Birmingham Church and come down upon Sullivan.

If this could be ascertained to be true, Washington meant to cross the stream and defeat Knyphausen before Cornwallis could come to his relief. But General Sullivan could not or did not get confirmation of the report, the opportunity was lost, and the day wore on in uncertainty.

General Knyphausen kept the American artillery apprised of his presence across the ford. Between the clouds of smoke and dust, the tall hats and martial uniforms of the Hessians were visible to the gunners. Among the Americans were Captains Briant[1] and Gridley,[2] the former of whom at least had more than once distinguished himself before the eyes of Washington. They were part of a group of men who had met often at the White Horse Tavern in Boston,[3] a little south of the present Adams House. Major-General Lincoln of Hingham and Colonel John Crane, who lived in Tremont Street opposite the present Hollis Street, were of the number. Lincoln was at this time in the Saratoga campaign, while Colonel Crane was with Washington's army, commanding the Third Continental Artillery.

The first lieutenant of Captain Briant's company in the regiment was Joseph Andrews[4] of Hingham, whose father was a selectman of the town in 1777. Joseph was scarcely twenty. At the beginning of the year a call came for men for the army, and his mother, with foreboding of misfortune in her heart, begged him to remain with her. The excitement was great; reports of Burgoyne in upper New York and Howe in New Jersey made him eager to join in the struggle. In camp and afterward during the long weeks of pain and loneliness he often said: "My mother was sorry to let me come into the army." On the first of February

[1] David Briant became Captain-Lieutenant in the Third Continental Artillery 1 January, 1777, and Captain 10 May. He died 12 September, 1777.

[2] John Gridley was Captain-Lieutenant of the Third Continental Artillery.

[3] See these Publications, v. 283, 284.

[4] Lieut. Joseph Andrews was born at Hingham 5 August, 1757. His father of the same name served the town as Selectman from 1775 to 1777, and as Treasurer in 1769. The soldier's brother Loring was one of the original proprietors of the Charleston (South Carolina) News and Courier; and a nephew of the soldier was Joseph Andrews, the Boston engraver. (History of the Town of Hingham, ii. 13.) According to Heitman's Historical Register, Andrews became First Lieutenant of the Third Continental Artillery 1 February, 1777, and died 22 November of the same year.

Andrews received a commission as Lieutenant of artillery, and on the tenth of May David Briant was made Captain of the company.

At last when word came to Washington that Cornwallis had crossed the forks of the Brandywine and was nearing Birmingham Church, Sullivan's men were wheeled about to meet them. Cornwallis's advantage over Sullivan soon became evident and Knyphausen gave the order to advance across Chad's Ford. When the Hessians, who led the British advance, had crossed the Brandywine they halted, changed their tall hats for heavy brass caps (which were carried by a loop on a button at the hip), and then pressed steadily over the field toward the hill. In the midst of the conflict Captain Briant fell mortally wounded, leaving Lieutenant Andrews in command of the company. It was a grim and bloody promotion, with the Hessians pressing toward him as they forced back the wavering ranks led by Sullivan. Wounded himself, the Lieutenant still kept to his guns. Lafayette was not far away, and forty years after, he recalled the fight which Lieutenant Andrews made on that day. At last a bullet struck Andrews just above the knee; as his men carried him back toward the rear he cried to the gunners: "My fellow soldiers, fight on, fight on, the day is ours!"

When Sullivan gave way, Cornwallis came down upon Wayne and Armstrong who were compelled to retreat to avoid being surrounded, and the battle was lost. Through the following weeks, while Washington kept General Howe near Philadelphia that he might not go to the aid of Burgoyne, Joseph Andrews lay upon his bed at Trenton.

General Lincoln had written from Boston to the family that their son and brother was wounded, and added: "I further say, I believe that all the wounded will recover, your son among the rest." News of the battle reached Boston on the twenty-second of September, and General Lincoln, who had come east, wrote on the twenty-fifth to the family. Later Captain John Gridley sent two letters. The first I give as it was penned, except to add marks of punctuation and the necessary capitals. It is addressed "To Joseph Andrews in Hingham to be left at M^{r} D^{d} mortons in Boston at Sin of the black an white hors in faver of Capt Niles." [1]

[1] Diman or Dimond Morton was a brother of Perez Morton. Jeremiah Niles was Captain-Lieutenant of the Third Continental Artillery.

ARTILLERY PARK NER PHILADELPHIA NOVEMR 3 1777

SIR

I have recved a letter direted to your Son dated Sept 24. Your Son was wonded at brandewine battel. He was with me. He was wonded in the thye, letel above the knee, and was sent of[f] with the wonded So that I Could not Send you word how he was be for, my not being well. I Got liberty to go and see him, & I found him Sixty milles from Campt. When I Saw him he was so over joyed that he Could not Speek for sum time; he Cried all the time that I was with him. I Staed with him half a day; I was ablige to return to Campt. I ordered the Doctor to Purches every artical of life that he wanted; and he has had a vielent fever with his wond and he is so bad that he Could not wright to you. He desired me to wright to you. I Sent a Sergent to take Care of him. I hop in my next I shall informe you that he is better. Be for I went to see him I heard that he was ded, but when I found him he told me that he was so bad that he never expcted to goe abrode againe. I desired him to make him self easey, and with the blesing of God I left him. He praid that I would wright to you; I promised that I would.

P. S. he told me that he had ben so bad with the fever that he Could not be removed in the bed for twelve days, but his fever had left him. But his wond was very bad.

I am yours JOHN GRIDLEY *Capt of Artillery in the Park.*

Pray wright to me if you See this.

The second letter follows:

CAMP NEER PHIDELPHIA NOVEMR 25TH 1777

SIR

I am Sory that I must inform you of the deth of your Son, So worthy a Brother Officer of mine. He was with me at the Battel of Brandeywine river. He was wonded the 11 of Sept.; tho I mus escape he must fall. Tho he was wonded he Spoke to the men these words befor he left the field: my felow Soldiers fight on, fight on, the day is ours! And he left the field. I have lost levi Bicknel[1] that died of the same wond in his knee, and two more men that was wonded in the knee the same as your Son. He often told me that his mother was sorry to

[1] Levi Bicknell of Weymouth served in Capt. Joseph Trufant's Independent Company in 1775, and in Col. Crane's Regiment in 1777. In September of that year he was reported killed.

let him Cum into this army, but for all [that] he Bled and died for his Country, tho a worthy Officer. When I was to se him at Trinton, where he lay upon his bed, he Said to me: Are we like to git the day? I told him we whare and he Said that [was] all he wanted, but dont for git to wright to my farther an mother an brothers an sisters. Let them know that I have fought for them an for the genraticion [generation] that is to Cum.

This morning I recvied a letter by my sargent ho I Sent to take Care of him after he was wonded. The Sergent brot me this dolful news of his deth. In my letter from the doctor was these words: This will informe you of the death of your friend Lieut Andrews on the morning of the 22^{d} Ins^{t}.; he Suffred much during the Course of his illness but bore all with Amazing fortitude and Grate resolution. You may assure your self and allso all his relations that he wanted for nothing that was requisited to make him as comfortibel as Posibell. The family wheare he lay whare kinde to him in the highest degree, affording him every assistince, nursing him as tenderly as if he had been their dearest relation.

These words the doctor wright to me Capt Gridley Sir his Effects is at this house I think it would be proper for you to Cum and take them away, the nurse that tended him expects Sum Present you will [be] abel to Judge of its propriety by being on the Spot. Deer Sir I will do all for you that lays in my power. It is forty or fifty miles from hear (turn over leafe)

Sir if you will let me have his Sword to rember him by I will pay you for it, for he was as [a] brother to me, and I loved him as if he had ben my one brother.

Pray Sir wright for what things that you would have of his Sent to you and I will Send them and the rest I would sd them to vandeu for thay will fech a Grate price hear and I will Send you the money for them this winter for I expect to Cum hom to Boston and I will Cum and See you. Pray wright to me what you would have don with his Cloths and I will do it for you. Thair is a post that Cums for this regt he will be in boston a bout three weeks hence; his name is morison. If you will go to dimon Mortons at Boston he will tel you about him, not havin time to wright more; and I will wright by the Post and he will leave it at morttons.

I am your humbel Sarvent

JOHN GRIDLEY *Capt of Artillery*[1]

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[1] The originals of these letters are in the Brookline Public Library.

Colonel John Crane wrote from Camp Valley Forge, Pennsylvania, 28 January, 1778, that Andrews was "a brave officer and the promising good soldier," and that he "was buried in a very decent and Respectable manner."

On behalf of Mr. EDMUND M. WHEELWRIGHT, Mr. HENRY W. CUNNINGHAM communicated a contemporary copy of a letter written from Wells 25 April, 1689, relating to an Indian attack on Saco and Cape Porpoise. The letter follows:

WELLS; 25th Aprill 1689

May it plese your Hon^{rs} wee haue receiued certain information that ye 2–th [1] of this Instant being Lords day, the Indians; suposed to be eight or ten; sundry of them well known to ye inhabitance of Saco came upon said town, surprising ye people, in their houses: wounded to ye number of fiue or six, burnt two houses, with all the goods ye owners with great difficulty escapeing: y next day they came to Cape-Porpus burnt a house begun to be Garrisoned, belonging to Nicho^{as} Moorey slew one young man: uiz: John Barrett (whose father and two Brothers, were killed by sum Indians as is supposed, ye last fall) took ye slain mans horse and another out of a pasture and rode about triumphantly in uiew of ye desolate Inhabitance: who for their safty) were forced to forsake ye Terra firma. or main. and to betake themselues to an Island: where is a Garrison, where they remained in a deplorable case, and are subject to staruing, or murder, or both if

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[1] The blotting of the second figure unfortunately makes the date undecipherable. The Andros government was overturned on Thursday, April 18th. Hence Sundays occurred in that month on the 7th, the 14th, and the 21st. Cotton Mather, writing about 1699, said:

The salvages began to renew their hostilities at Saco falls, in the beginning of April, on a Lord's day morning, some while before the *revolution* (Magnalia, 1853, ii. 589, 590).

Folsom, writing in 1837, said:

In April, 1689, "the savages began to renew hostilities at Saco falls, on a Lord's day morning," says Mather; but no lives appear to have been lost (History of Saco and Biddeford, p. 192).

Later still, Willis wrote:

In April, 1689, the Indians renewed their hostilities at Saco, but without doing much damage (1 Collections Maine Historical Society, i. 291).

The document in the text tells a somewhat different story.

speedy succor be not afforded. their cattle, it is to be feared, are mostly killed ye Indians shooting uery often in ye woods. ye certainty, of ye premises we reciue from two men, who went on purpose for information: of which we thought meet to giue your Hon^rs^ an account so leauing your Hon^rs^ to ye Protection of heauen, and ye sad case of ye distressed to your most serious compastionate thoughts. wee subscribe

Your Hon^rs^ most humble seruants —

SAMUELL WHEELWRIGHT
RICHARD MARTYN
FRANCIS LITTLEFEILD
JOHN WHEELWRIGHT
NATHAN^ll^ MASTERS
JONATHAN HAMANDS

To ye superior Power
now in being at Boston
with care and speed.

[*Filed*]
Saml Wheelwright &c.
dated Wells Apr. 25, 1689,
To the Executive at Boston,
relative to Indians' attack
on Saco.

Mr. HENRY W. CUNNINGHAM spoke as follows:

This letter appears to be an original record of one of the countless attacks of the Indians upon the outlying settlements of early New England. The slender thread of pioneer towns that stretched along the coast and on the banks of the rivers to the east and north of the mouth of the Merrimac, was constantly open to attacks from the savages who still roamed in large numbers through the forests behind these towns. Though the settlers were ever on the alert and many of the towns had their little garrisons, these savage forays came so quietly and so quickly that a tragedy was enacted and the Indians were gone almost before an alarm could be given.

During the few years preceding the writing of this letter, affairs had reached such a pass that no one dared to accept a grant of land or a mill privilege at any distance from the centre of the town, upon the usual condition of settling upon it within two years. Shortly before, some Indians had been captured and sent as prisoners to Boston, but Andros upon his return from New York had set them at liberty.

In his paper on A Frontier Family, read before this Society in

May, 1894,[1] Mr. Wheelwright told many tales of hardship and suffering that befell the Wheelwright family and other early settlers at Wells, and in that paper communicated other letters of a similar import to this one. Some of the letters were addressed to Major Charles Frost at Portsmouth, who was commander of the military forces in Maine; but this letter is of importance from the facts that it is addressed to the unknown new rulers at Boston and that it was signed by the principal men of Wells, then a shire town and the seat of the Court.

Of the signers, Samuel and John Wheelwright, respectively the son and grandson of the Rev. John Wheelwright, are too well known to need comment. Jonathan Hammond (or Hamands, as he spells it) was the oldest son of William Hammond, an early and prominent settler who is said to have died in 1702 at the great age of one hundred and five.[2] Jonathan reached the allotted age of man, but his fear of the Indians was fully justified, as he was later killed by them and scalped. He with William Frost had in 1682 received a grant of two hundred acres of land on the west side of Little River, with the privilege of building a saw mill, which was erected the next year.[3]

Francis Littlefield and his father Edmund were both early settlers at Wells and prominent in its affairs, and Francis had received an additional grant of one hundred acres of land only three years before this time.[4]

Nathaniel Masters was probably a son or a grandson of John Masters, who was admitted a freeman at Watertown in 1631 and died in 1639, and may himself have been of Beverly in 1659.[5]

Richard Martyn was the son of Richard Martyn of Portsmouth, New Hampshire, one of the founders of the church there and a leading man in the Province. He was born 10 January, 1660, and took his degree of A.B. at Harvard College in 1680, his name standing at the head of a rather distinguished list of five members.[6]

[1] Publications, i. 271–303.

[2] New England Historical and Genealogical Register, ix. 312.

[3] Bourne, History of Wells and Kennebunk, p. 187; 1 Collections Maine Historical Society, i. 269.

[4] Bourne, History of Wells and Kennebunk, p. 187.

[5] New England Historical and Genealogical Register, ii. 180; Bond, Genealogies of Watertown, i. 364; Pope, Pioneers of Massachusetts, p. 305.

[6] Sibley, Harvard Graduates, iii. 179.

Among these were John Leverett, afterwards Fellow and President, William Brattle, later Fellow and Treasurer, and Percival Green, the story of whose connection with the famous turkey supper at Harvard in 1672 was told us by Mr. Noble in April, 1897.[1] Richard Martyn was settled as minister at Wells in accordance with the town vote of 21 June, 1689:

> The town agreed with Richard Marten, who was then living in Wells, in the capacity of a school-master, to become their minister.[2]

They voted him the use of the parsonage and a yearly salary of fifty pounds to be paid in specific articles. Though he thus became the minister of Wells, he was never regularly ordained, and for that reason his name never appeared in italics in the Harvard Triennial Catalogues. He died of the smallpox at Portsmouth on the sixth of December, 1690.

The two John Barretts, father and son, and Nicholas Moorey, who are mentioned in the letter, one as having been killed by the Indians in this attack, were all early inhabitants of Wells or its vicinity, and in 1684 had received grants of land on the Little and Mousam Rivers.[3]

The address of this letter, "To ye superior Power now in being at Boston," has a peculiar significance, as the Andros government was overthrown just seven days before the date of the letter, and the writers were uncertain to whom to address it.

Mr. HENRY H. EDES called attention to the fact that at least three of King William's letters of instruction to the authorities at Boston — dated 30 July, 12 and 15 August, 1689 — were addressed in a similarly vague way, — namely, "To such as for the Time being take Care for preserving the Peace and Administring the Laws, in Our Colony of the Massachusetts Bay in New England in America."[4]

Mr. ANDREW MCFARLAND DAVIS exhibited a photographic copy of a Resolve of the General Court in 1725, in the

[1] Publications, iii. 448–470.
[2] 1 Collections Maine Historical Society, i. 347.
[3] Bourne, History of Wells and Kennebunk, p. 187.
[4] Massachusetts Archives, General Court Records, vi. 89, 90, 91.

At a GREAT and

General Court

or

ASSEMBLY

For His Majesty's Province of the Massachusetts-Bay in New-England, begun & held at *Boston*, upon Wednesday, [illegible]

The following Resolve past [illegible] to by His Honour the Lieutenant [illegible]

VIZ.

UPON serious Consideration of the [illegible] many of the Ministers of the [illegible] Labour under, with Respect [illegible] money, their Salaries being [illegible] Bills of Credit of this Province [illegible] Ministers Contracted with their People in the [illegible] passed in Payment; And the Necessaries of Life [illegible] Provisions, together with Labour & other Things, [illegible] more of the Bills of Credit than heretofore:

RESolved, That it is the Indispensible Duty of the [illegible] Precincts & Parishes of this Province, to make [illegible] the Salaries or Maintenance of their Respective Ministers, as may Honourably Support & Encourage them in their Work and Office: In so have Regard as well to the Time of the Contract between the Minister & People, and the Specie therein Mentioned, as to the Fixed and Growing Differences in the Value of the Bills of Credit, from what they have sometimes been. And this Court do therefore most Earnestly Recommend the Speedy & Constant Practice of this Duty to the several Congregations and Religious Assemblies within this Province: And that this Resolve be Publickly Read on the next Lord's-Day after the Receipt hereof, in the Afternoon before the Congregation be Dismiss'd; And at the Anniversary Meeting of the several Towns or Precincts in the Province in the Month of March next.

By Order of the Great & General Court or Assembly,

Josiah Willard, Secr.

Engraved for The Colonial Society of Massachusetts
from an original in the Massachusetts Collection

Among these were John Leverett, afterwards Fellow and President, William Brattle, later Fellow and Treasurer, and Percival Green, the story of whose connection with the famous turkey supper at Harvard in 1672 was told us by Mr. Noble in April, 1897.[1] Richard Martyn was settled as minister at Wells in accordance with the town vote of 21 June, 1689:

> The town agreed with Richard Marten, who was then living in Wells, in the capacity of a school-master, to become their minister.[2]

They voted him the use of the parsonage and a yearly salary of fifty pounds to be paid in specific articles. Though he thus became the minister of Wells, he was never regularly ordained, and for that reason his name never appeared in italics in the Harvard Triennial Catalogues. He died of the smallpox at Portsmouth on the sixth of December, 1690.

The two John Barretts, father and son, and Nicholas Moorey, who are mentioned in the letter, one as having been killed by the Indians in this attack, were all early inhabitants of Wells or its vicinity, and in 1684 had received grants of land on the Little and Mousam Rivers.[3]

The address of this letter, "To ye superior Power now in being at Boston," has a peculiar significance, as the Andros government was overthrown just seven days before the date of the letter, and the writers were uncertain to whom to address it.

Mr. HENRY H. EDES called attention to the fact that at least three of King William's letters of instruction to the authorities at Boston — dated 30 July, 12 and 15 August, 1689 — were addressed in a similarly vague way, — namely, "To such as for the Time being take Care for preserving the Peace and Administring the Laws, in Our Colony of the Massachusetts Bay in New England in America."[4]

Mr. ANDREW MCFARLAND DAVIS exhibited a photographic copy of a Resolve of the General Court in 1725, in the

[1] Publications, iii. 448–470.
[2] 1 Collections Maine Historical Society, i. 347.
[3] Bourne, History of Wells and Kennebunk, p. 187.
[4] Massachusetts Archives, General Court Records, vi. 89, 90, 91.

At a GREAT and

General Court

[illegible]

ASSEMBLY

For His Majesty's [illegible] of the Massachusetts-Bay in New-England, [illegible] at Boston, upon [illegible]

The following Resolve pass'd [illegible] to by His Honour the Lieutenant [illegible]

VIZ.

UPON serious Consideration of the [illegible] many of the Ministers of the Gospel [illegible] Labour under, with Respect to their [illegible] ments, their Salaries being generally [illegible] Bills of Credit of this Province, altho' many of the Ministers Contracted with their People in the Time when [illegible] passed in Payment ; And the Necessaries of Life, such as [illegible] Provisions, together with Labour & other Things, now Demand so much more of the Bills of Credit than heretofore :

RESolved, That it is the Indispensable Duty of the several Towns, Precincts & Parishes of this Province, to make such Additions to the Salaries or Maintenance of their Respective Ministers, as may Honourably Support & Encourage them in their Work ; and therein to have Regard as well to the Time of the Contract between the Minister & People, and the Specie therein Mentioned, as to the Great and Growing Difference in the Value of the Bills of Credit, from what they have sometimes been. And this Court do therefore most Earnestly Recommend the Speedy & Chearful Practice of this Duty to the several Congregations and Religious Assemblies within this Province : And that this Resolve be Publickly Read on the next Lord's-Day after the Receipt hereof, in the Afternoon before the Congregation be Dismiss'd ; And at the Anniversary Meeting of the several Towns or Precincts in the Province in the Month of *March* next.

By Order of the Great & General Court or Assembly,

Josiah Willard, Secr.

[illegible] for The Colonial Society of Massachusetts
from an original in the [illegible] Collection

Chamberlain Collection in the Boston Public Library, printed in the form of an Executive Proclamation, upon the distress suffered by the ministers of the Province in consequence of "the great and growing difference in the value of the Bills of Credit," and calling upon the towns to take action for their relief. Mr. Davis also mentioned some new light that he had recently obtained on the subject of the Land Bank from an examination of the Boston Weekly Journal and the Boston Weekly Rehearsal for 1733.

On behalf of Dr. Norton Folsom of Cambridge, a grandson of the Rev. Joseph McKean, Mr. EDES presented to the Society an original Petition of Amy McKean, the widow of Dr. McKean, to the Massachusetts Legislature for leave to sell real estate in Cambridge. The Petition, dated Cambridge, 11 June, 1818, bears the endorsement of James Winthrop, Abiel Holmes, Thomas B. Gannett, Levi Hedge, and William Hilliard, and is accompanied by the draft of a Resolve to carry into effect the prayer of the petitioner. The Petition was not presented to the Legislature, but a similar one was sent to the Supreme Judicial Court, which granted a license for the sale of the property in the following autumn. The thanks of the Society were returned to Dr. Folsom for his acceptable gift.

Mr. EDES communicated the following letter written in 1648 or 1649 by Joseph Parker, one of the founders of Andover, Massachusetts, to the Rev. John Woodbridge,[2] the first minister of that town, after his return to England in 1647.

Respected S^{r} you tould me when you was with us. that you did desire to buy my Land: I haue appointed my Vncle webb in case he doe not haue it himselfe to giue you the offer of it in the first place: and if you

[1] See Sarah L. Bailey, Historical Sketches of Andover, pp. 102, 103.

[2] See *Ibid.* pp. 417–420; New England Historical and Genealogical Register, xxxii. 292; Proceedings of the American Antiquarian Society for October, 1884, pp. 268–275, 286.

please to buy it will be content to take pay in corne or Cattle as indifferent men shall Iudge hear with us. and if you please to let me haue 10 Akers of your farme Land one the west sid of [*torn*].

I expected an Answer from you whether you dd my Letters the Last yeare: so[1] with my Cind Loue vnto you and m^r^ Beniamin[2] I end

Yo^r^ to Command

JOSEPH PARKER

And^r^ in new england
2 July[3] 164–[4]

[*Addressed*]
To the Reu^d^
m^r^ IOHN WOODBRIDG
of
Andeu^r^
[England]

Mr. GEORGE ARTHUR PLIMPTON of New York was elected a Corresponding Member.

[1] The word "desiring" has here been crossed out.

[2] The Rev. Benjamin Woodbridge, a brother of the Rev. John Woodbridge, graduated at Harvard College in 1642. See Sibley, Harvard Graduates, i. 20–27; Bailey, Historical Sketches of Andover, pp. 89, 90.

[3] The date "26" has been crossed out and "2" substituted for it.

[4] Presumably 1648 or 1649.

APRIL MEETING, 1903.

A STATED MEETING of the Society was held at No. 25 Beacon Street, Boston, on Thursday, 23 April, 1903, at three o'clock in the afternoon, Vice-President WILLIAM WATSON GOODWIN, D.C.L., in the chair.

The Records of the last Stated Meeting were read and approved.

The Chair appointed the following Committees in anticipation of the Annual Meeting:

To nominate candidates for the several offices, — Messrs. JAMES B. AMES, THOMAS MINNS and JAMES A. NOYES.

To examine the Treasurer's Accounts, — Messrs. EZRA R. THAYER and JOHN G. PALFREY.

The CORRESPONDING SECRETARY reported that since the last meeting of the Society he had received a letter from Mr. GEORGE ARTHUR PLIMPTON of New York accepting Corresponding Membership.

The TREASURER reported that since the last meeting of the Society two gifts of money had been received, — one of One hundred dollars from the Hon. HORACE DAVIS of San Francisco, a Corresponding Member, which had been added to the Publication Fund; the other of Ten thousand dollars from the Executors of the estate of the late Robert Charles Billings.

On the motion of Mr. JOHN NOBLE, it was voted that the thanks of the Society be extended to Mr. Davis for his acceptable gift.

The TREASURER offered the following Votes in the form submitted by Mr. Billings's Executors:

Voted, That The Colonial Society of Massachusetts gratefully accepts the gift of ten thousand dollars made to said Society by Thomas Minns and Joseph S. Kendall, surviving executors of the will of Robert Charles Billings, from the remainder of the estate distributed by them in accordance with the terms of said will and a decree of the Supreme Judicial Court of Massachusetts dated April 1, 1903.

Voted, That said Society also accepts the conditions of said gift making said sum a permanent fund of ten thousand dollars to be called the Robert Charles Billings Fund, the income only to be used for Publications; and the Treasurer of said Society, Henry Herbert Edes, is hereby authorized to receive and receipt for the same.

After these Votes had been unanimously adopted, Mr. DAVID R. WHITNEY offered the following Minute, which was also unanimously adopted:

The Colonial Society of Massachusetts wishes to record its appreciation of the interest in its prosperity and work evinced by its associate Mr. Thomas Minns, in permitting it to share in the bounty of the late Robert Charles Billings, under whose last will he has faithfully served as an executor and almoner. With the exception of the late President Wheelwright, no member of the Society has, as yet, contributed so much to its material welfare. This substantial addition to the endowment of the Society is timely and inspiring, and impels the members to offer to Mr. Minns this formal testimonial of their gratitude.

On behalf of Dr. HORACE HOWARD FURNESS, a Corresponding Member, Mr. HENRY H. EDES communicated some letters written by James Martineau[1] and James Russell Lowell to Dr. Furness's father, the Rev. Dr. William H. Furness. The letters follow.

JAMES RUSSELL LOWELL TO WILLIAM HENRY FURNESS.

LEGACION
DE LOS
ESTADOS UNIDOS DE AMERICA
EN ESPAÑA
PARTICULAR

13 July, 1879.

DEAR DOCTOR FURNESS,

It was a very kind thought in you to give me an account of your visit to Emerson & of his actual condition, for I feared from

[1] For many letters written by Dr. Martineau to the Rev. Joseph H. Allen, see the Publications of this Society, vi. 417–454.

what I had heard that his mind as well as memory had begun to fail him. The tone of your letter, even more than what you say, convinces that he is at least happy, & happy from his own resources. This is as it should be, for he of all men deserves

> An old age serene and bright,
> And lovely as a Lapland night,

& so I fancy him since your letter with one daylight bending over to kiss the other above his head. However, I cannot conceive him as an old man. I associate him always with things vernal & in their prime, with the everlasting forces that know not decay, & though by the common doom his bodily presence must be taken from us ere long, there are few men of whom so much will be left living & giving life. I have never known a character on the whole so beautiful, so high above *self*, & so kindly a mixture of strength & gentleness. How firmly he always held his own & that without ever withstanding others but only the thing they represented. I have known a bit of scenery & now & then a Cathedral to stamp itself on my memory as he did, but no other man & no other thing. I remember as if it were of yesterday the first time I ever walked with him & the exquisite suavity of his demeanor towards me — a boy of nineteen & very young of my age. It was to the "South-Cliff" (I think they called it) in Concord, a lovely summer day forty one years ago. What an other New England it was then to that we have now!

I sometimes think that it is not our own growing-old that is painful — if indeed we are altogether conscious of it — but that of those older than ourselves & associated with the better memories of our prime. With every one of them we lose a bit of our youth which survived for us still in them, & at last find ourselves alone in an unfamiliar or even alienated landscape which they tell us is the same but from which all the old landmarks that made it dear to us are gone. Even the cutting-down of a long-known tree leaves a scar in the heart that aches in bad weather, but when the *cara e buona imagine paterna* of such a man as Emerson is seen no more a gap is left between us & our past that nothing can ever fill.

It rejoiced me to see in your handwriting that you at least may mock at calendars. And if, so you say, you are nearing eighty, it must be very jolly to be at once so old & so young. I do not remember the year of your graduation,[1] but you must in the nature of things be soon cele-

[1] The Rev. Dr. Furness was born in Boston 20 April, 1802, graduated at Harvard College in 1820, and died in Philadelphia 30 January, 1896.

brating your sixtieth anniversary. May I be there to see! For I am sure that after all other reminiscences are exhausted I shall see you proposing a dance round the tree to supple your joints a little after sitting so long.

When your letter came I was passing through the most painful week of my life. My wife [1] (a very beautiful & noble woman) was at the very gates of death with typhus. Five days ago she was thought by the doctors to be actually dead — but revived as by a miracle & is now thank God getting slowly better. My mind is still somewhat confused with the horrors I have passed through & which I think I could hardly have endured but for the kindness & devotion of two of our Spanish friends here. Especially to Señora de Riaño I think I owe the saving of what was so incalculably dear.

Let me add my felicitations to those of your other friends that Old Age if Old Age it be that has such an elastic step finds you happy at the close of a life on every day of which you can look back with satisfaction.

With great respect
faithfully & cordially yours
J. R. LOWELL.

JAMES RUSSELL LOWELL TO WILLIAM HENRY FURNESS.

2, RADNOR PLACE,
HYDE PARK, W.
16th June, 1887.

DEAR DOCTOR FURNESS,

I would gladly have done what you wish both on account of my high regard for you and for my own sake, but I could give no point-blank answer unless it were "no." There is no use in whistling for a wind on such occasions and one must brood awhile before he can be certain that it is the Muse or some less auspicious spirit that invites him. I came over here very weary and hoping for a summer of absolute rest. When one is approaching sixty-nine, one hasn't the courage of one's prime. The occasion [2] lends itself but grudgingly to lyricism and

[1] This was Lowell's second wife, Frances (Dunlap) Lowell, who died 19 February, 1885.

[2] The celebration of the centennial of the adoption of the Federal Constitution. It was held in Philadelphia, 15–17 September, 1887. Dr. Furness was a member of the committee in charge of the arrangements for the exercises on the seventeenth, when an Address was delivered by President Cleveland and an Oration by Mr. Justice Miller of the Supreme Court of the United States.

the fate of the Jubilee Odes here was not encouraging to violent methods with the Muse. Tennyson has run away to sea that he may escape a second mischance.

I had been meditating over the subject and gradually blocking out a framework in my mind that might sustain and give order to a fitting fabric of strophes. But I had not got so far as to know whether my thoughts would sing when your telegram came. Telegrams always scare me and yours upset me altogether. So with the best good-will in the world, I feel that it will be better all round if I withdraw from the enterprise.

Mr. Lodge in writing to me speaks of a letter from your son Mr. Howard Furness. I have never had such a letter or I should have answered it.

With high and affectionate regard,
faithfully yours,
J. R. Lowell.

JAMES RUSSELL LOWELL TO WILLIAM HENRY FURNESS.

Elmwood,
Cambridge, Mass.
20th Nov: 1889.

Dear Doctor Furness,

I also have a very high appreciation of Miss Repplier[1] & should be glad to see her. But you don't say *when* she is coming. Perhaps she might be good enough, considering my 'ears, as Dogberry says, to let me see her here when she comes Eastward.

Send the sermon by all means — one of yours can't fail to do me good. It is a comfort to think of you as still active for good.

Faithfully yours

The Revd Dr Furness. J. R. Lowell.

JAMES MARTINEAU TO WILLIAM HENRY FURNESS.

Liverpool, Dec. 7.th 1836.

My dear Sir,

These lines will be presented to you by Mr Henry Ames who, with Mrs H. A., is about to spend some time in Philadelphia, and will find a residence there so much the more interesting, if you will per-

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Lowell's letter, doubtless, was in reply to a request from Dr. Furness to write an Ode for the occasion.

[1] Miss Agnes Repplier, of Philadelphia.

mit them to enjoy the privilege of an acquaintance, personal and pastoral, with yourself and Mrs. Furness. Mr. Ames was a fellow passenger of Harriet's,[1] when she went to visit your country; and now, with the ready enterprise of the English merchant, which gives him a home as wide as his commerce, leaves us for another season. Mrs. Ames is, if I recollect right, a member of one of our sound old Presbyterian families.

Mrs. Butler[2] arrived here well, but anxious about her child. We saw her two or three times during her short stay in Liverpool. I do not think that any thing serious ails her baby, but her agitated spirits on returning to her country under circumstances so changed disposed her to needless solicitude. She showed me the *outside* of your book.[3] This is a tantalization I cannot bear. You must send me the means of looking into the interior. May I send my own and wife's kind regards to Mrs. Furness?

Ever yours with high esteem,

JAMES MARTINEAU

[*Addressed*]

REV^D W. FURNESS,
Philadelphia.

Favored by

HENRY AMES ESQ^R

JAMES MARTINEAU TO WILLIAM HENRY FURNESS.

SOUTH KINRARA, AVIEMORE,
INVERNESS-SHIRE.
July 10, 1873.

MY DEAR DR FURNESS,

Your prompt and generous contributions to the wealth, as well as the accuracy, of my Hymn book, deserved an earlier acknowledgment. But till the vacation carried me off to the Scotch mountains, I struggled in vain with the more importunate claims which in London keep me in a state of permanent compunction about my correspondence. I do not know how to restrain within measure my thanks both for the hymns (of which I have used all but 2), and for the glorious Song on John Brown. All of them go to my heart: and the last is truly noble and magnificent in its simple power. I was also much obliged by your

[1] The writer's sister, Harriet Martineau.

[2] Mrs. Pierce Butler, better known as Fanny Kemble. See her Records of later Life (1882), i. 70–75.

[3] Remarks on the Four Gospels (1836).

son's kind offer to hunt up the original form of Peabody's hymn. But having taken it from the Springfield Collection, for which, I think, it was written, and tested it in various ways, I have no excuse, on the score of doubt, for imposing further trouble about it. There are however a few obscurities, with regard to the literary history of American hymns, which I find it still difficult to clear up, notwithstanding the very valuable help I have received from M[r] Samuel Longfellow. Among other things, I cannot make out the date of *your* hymn in the New York Coll. beginning "Father in heaven, to whom my heart." This doubtless you will kindly tell me. I think it must be *1824*. Should you happen to know also the dates of any of the following, perhaps you would jot them down at the same time.

		Bk. of Hymns
Tho[s] Gray	"Suppliant, lo! thy children bend"	15
H. Ware	"To prayer, to prayer" &c	2
		H. & Tune Bk
Bryant	"Mighty One, before whose face"	726
Pierpont	"O God! I thank thee that the night"	*Bk. of H.* 366
"	"Another day its course hath run"	372
Sam[l] Gilman	"This child we dedicate to thee"	377
		H. of the Spirit
M[rs] Willard	"Rocked in the cradle of the deep"	267
H. M. Kimball	"We have no tears thou wilt not dry'	607
N. P. Willis	"The perfect world by Adam trod"	Plym[th] Coll. 938

(What were Willis' *Christian names?*)

The volume is now in the press: so that I hunger for all last scraps of information that may reduce its imperfections and fill up its lacunæ.

I had the great pleasure of just falling in with Dr Sears [1] before I left town. I had long known and loved him through his writings: and it was delightful that the personal impression so absolutely harmonized with the imaginative prepossession. It needed not Dr Bellows's [2] affectionate introduction to give assurance of what he is. Though unable to occupy his position in theology, I wish I could feel more confidence that a different and more modern position is likely to reproduce such a spirit as his. Perhaps in a generation or two it may be so: but at present the saintly mind seems to be the attribute of the old theology. It is a

[1] The Rev. Dr. Edmund H. Sears of Weston, Massachusetts.

[2] The Rev. Dr. Henry W. Bellows. He was a classmate of Dr. Sears at the Harvard Divinity School in 1837.

pathetic lot that assigns some of us in feeling to the Past, and in thought to the Present.

Believe me ever,
Yours very faithfully,
JAMES MARTINEAU.

REV. DR FURNESS.

P. S. My address will be *here* for some time to come.

JAMES MARTINEAU TO WILLIAM HENRY FURNESS.

10, GORDON STREET,
LONDON, W. C.
Feb. 26, 1874.

MY DEAR DR FURNESS,

That my Hymnbook should go so far towards satisfying your feeling is the best possible compensation for its falling short of my own. To acquiesce in imperfect works is one of the hardest lessons of life: yet without learning it, nothing is to be done. I could write half a dozen hostile criticisms on this book, all without real injustice: yet it has cost me my best pains, and perhaps improves sufficiently on its predecessors to justify its appearance.

I know the Hymn of Doddridge's which you cite, and like the *feeling* of it much. But I cannot get over the "Rivers of salvation": and the "Tongue of feeble clay" sticks in my throat. Moreover, the feminine character of Doddridge's mind, which touches many of his hymns with a delicate grace, here seems to me to verge towards feebleness, and rather dangerously try the piety of strong men.

Such a recognition of the Book as would be its adoption by your congregation is beyond all my expectations. If however the idea should be seriously entertained, you could have any required number of copies, in the cloth binding of which you have a sample, at 3 shillings and 3 pence per copy, i. e. I suppose 78 cents: or, if you preferred to "bind at home," in Sheets, at 2 shillings and 9 pence, or, I suppose, 66 cents, reckoned in specie. These are the prices to our English congregations. The Edition with Tunes will be not less, I fear, than double these prices. I am so much better pleased with a New York Presbyterian book ("The Sacrifice of Praise") than with any Music printing I can find here, that I have sent over to the Printers of it for an Estimate: so that I may possibly print in New York. But I am afraid that the range of prices is higher with you than with us at present, and that I may be unable to carry out this scheme. I quite hope that the Musical Edition will be

brought out within the year. It waits only for the harmonizing and transcribing of the tunes, a process which is rapidly advancing under the care of a small Comm^ee, consisting of my two sons,[1] — both of whom, happily for me, are scientific as well as executant musicians, — and my friend Rev. James Whitehead of Hackney, who is one of our best authorities in regard to Church Music. They are all rigorous in their disapproval of *adaptations*, picked out of Operas and Oratorios: so that the volume will consist wholly of pure Church Music: and as the range of exceptional metres and special hymns is considerable, there will be a good number of original compositions, written for the words.

In the first issued copies of the Hymnbook there appeared a few vexatious misprints, which did not exist in my Revises and are not in the electroplates, but which were introduced at the last by a careless workman. Some of these you may probably have noticed. They are all corrected now, except 2 or 3 slight ones affecting only the punctuation.

Believe me ever, dear Dr Furness,
Yours very faithfully,
JAMES MARTINEAU.

REV^D DR FURNESS.

Pardon this soiled page. To think that I should put a blot upon your name!

JAMES MARTINEAU TO WILLIAM HENRY FURNESS.

10, GORDON STREET,
LONDON, W. C.
May 23, 1874.

MY DEAR DR FURNESS,

The favour with which your congregation regards the Hymns of "Praise and Prayer" is a heartfelt joy to me: and I shall make no protest against any treatment, in the way of excision or addition, which you are likely to apply to it.

The price must be 2 shillings and 9 pence per copy in sheets. This is the rate for our congregations here: and it is fixed so as to be really below cost price, — at least, unless more than 20,000 copies are sold. My old Liverpool congregation is at present the only one where the book is in use. People wait for the musical and smaller editions: and, as my funds are limited, *they* unfortunately wait for some adequate sale

[1] Basil Martineau and Russell Martineau.

of the present edition. But this waiting race shall not result in standing still.

Eliza Scudder[1] is, I think, a Washington lady: at all events she belongs to you. Her hymns are full of *verve* and nobleness: and 168 is, I quite agree, especially fine.

At the end of June, I shall be leaving London for my vacation retreat on Loch Long side in Argyllshire. Though I can give any orders about the Hymnbook by letter to my printers, it would be more satisfactory to me to see, personally, to the carrying of them out. Should you therefore be able to send me instructions before I leave home, better attention would be secured to them, than if they came in July, August, or September.

I shall regard it as a true privilege, should I, through this volume, be associated with your day of congregational and personal Jubilee. "Fifty years Pastorate!" it is a refreshing instance of conservative and enduring life in this age of restlessness. The world would move better, as I think, if its steps could be brought nearer to so dignified and faithful a measure of change.

Believe me ever,

Yours most truly,

JAMES MARTINEAU.

REV. W. H. FURNESS

JAMES MARTINEAU TO WILLIAM HENRY FURNESS.

10, GORDON STREET,
LONDON, W. C.
Sep. 8, 1874.

MY DEAR Dr FURNESS,

I am sorry if the inopportune arrival of the Hymn books robbed you of one of your precious country days. Glad as I am to know of their safe delivery, there was no hurry about the Invoice: and I had rather have gone six months without my remittance than give you a needless hour in town. The too prompt Draft has duly reached me today. It is the first reimbursement of my outlay on the book: for, though the large Edition is for the most part sold, my Publishers will not account to me for anything till December, — perhaps not even till June next year.

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[1] Eliza Scudder was born in 1821 and died in 1896. For a sketch of her, written by Horace E. Scudder, see her Hymns and Songs (1896), pp. xi-xxiii.

I cannot hope that so large a lot of books has altogether escaped the effects of carelessness on the part of the Binders. Should copies turn up here and there with misplaced or omitted sheets, I shall feel obliged by your keeping a register of their number; and perfect copies shall be sent in their place by the next opportunity. And as the book comes into use, I shall be thankful to be told of any slips or errors which you may notice on my part. Already there are a few corrections and additions (to names & dates) on my list, which will improve the next edition. These relate chiefly to the American Hymns; on which, notwithstanding the friendly aid of Samuel Longfellow in addition to yours, I found it extremely difficult in the first instance, to obtain exact information. The publication of the book has brought out the communications which I could not elicit before. Mr Bryant[1] says, — and it pleases me to know it, — I have convinced him, — of what previously he did not admit, — that changes and differences in theology justify alterations in the text of hymns. This is a great and large-minded concession from a veteran poet of the most sensitive literary taste.

Believe me ever,

Yours very faithfully,

JAMES MARTINEAU.

REV. DR FURNESS.

Received, per Draft on Messrs Brown, Shipley & Co., in discharge of Hymn book Invoice, £83=4=10. JAMES MARTINEAU.

JAMES MARTINEAU TO WILLIAM HENRY FURNESS.

5, GORDON STREET,
LONDON, W. C.
June 14, 1876.

MY DEAR DR FURNESS,

Your promptitude in acknowledging the receipt of the Hymn-books shames me by its contrast with my Agents' delays. But if "all's well that ends well," it is better to say no more about the sins of the past, and simply to thank you for your kind remittance, and to hope that, with continued use and growing intimacy, the Tune-book will more & more commend itself to the feeling of your congregation and the critical judgment of the musical experts among them.

I must not forget to thank you for your very interesting and admirable paper in the Unitarian Review on the Religious application of the

[1] William Cullen Bryant.

"Evolution" doctrine. I read it with delight and hearty assent, from beginning to end; and with joyful wonder that your mind seems able to keep for ever young. And now you tell me that you are retiring from the field of active labour, and that your successor is already at work. I shall never be able to think of the Philadelphia pulpit as occupied by any one but W. H. Furness. With him the brightest and noblest chapter in the history of American Unitarianism closes: and we descend from heroic & prophetic heights to the levels of business organization and civic commonplace. No repose for declining years has ever been more thoroughly earned than yours: and I trust that it may enable you all the more effectively to speak to us at intervals through the press, as suggestive occasions may arise.

Believe me ever,

Yours very faithfully,

JAMES MARTINEAU.

REV. W. H. FURNESS.

JAMES MARTINEAU TO WILLIAM HENRY FURNESS.

5, GORDON STREET,
LONDON, W. C.
Dec. 23, 1878.

MY DEAR DR FURNESS,

In venturing to send you my recent Address, I did not mean to impose upon you even the task of reading it, — which, I know, is not a light one, — much less that of sending me so charming an answer to the presentation. I often lament the metaphysical habit which, — as my friend W. R. Greg[1] tells me, — spoils my style, and makes all that I write very stiff reading: but it is too late to mend. My own faith by no means requires me to sink deep in the scrutiny of ultimate principles: I rest contentedly in the common trusts of the human soul, and seek no recondite verification of them. But when I encounter the doubts of others, a fear of not getting to the bottom of them drives me too far from the surface, — in which after all, they may probably have their only roots.

I wish I could look with your genial and hopeful eye on the negative tendencies of our recent culture in regard to religion, or could detect any better affirmation looking behind their denial. Without for a

[1] For a notice of William Rathbone Greg, see the Dictionary of National Biography, xxiii. 88.

moment doubting that, when the darkness and the storm are past, the air will be brighter and sweeter, and the clear heaven embrace us again, I cannot but apprehend great desolation of heart and no little moral shipwreck meanwhile. Indeed, they are already abundantly visible: and when a generation has grown up without the idea of *Duty*, or with no sacred feeling connected with it, — and that is certainly what is coming upon us *here*, — the social result is one which I shrink from contemplating. My German and Dutch friends are affected by similar anxieties.

You introduce me to a personage quite strange to me in your mention of Omar Kayyam: & as it is a part of my business to make acquaintance with all oddities and extremes of thought, I shall look him up, — probably with the help of Mr Channing,[1] who lives very much with these queer Orientals. I suspect I shall share Emerson's feeling, — as Mr Channing will be found to share yours. I am obliged to own that I have never found any light I care for in either Indian or Persian literature, so far as accessible in English; and the study of it is mere task-work to me.

Believe me always,
Yours very cordially,
JAMES MARTINEAU.

REV. DR FURNESS.

JAMES MARTINEAU TO WILLIAM HENRY FURNESS.

35 GORDON SQUARE,
LONDON, W. C.
Feb. 29, 1888.

MY DEAR DR FURNESS,

By the help of Leap-year alone my lazy conscience saves its usual vow & answers your delightful letter within the month of its own date. In asking *silently* your acceptance of my recent book, I reckoned on no more than the silent reply of friendly acquiescence. You have given me a hundred-fold more, and from my heart I thank you. It is not difficult to me to dispense with *public* approval in matters of deep inward conviction. But here and there are a few loved and venerated men, whose sympathy at once intensifies my faith and doubles my joy in it, & this it is that makes your word so precious to

[1] The Rev. William H. Channing (H. C. 1829).

me. I pray you, do not worry yourself with my metaphysics: they are but medicine for sickly minds, which the healthy may well fling away as they would "apples of Sodom." It is the constructive part of the book in which alone I do profoundly care for fellowship; precisely because it is out of the sphere of "originality," and only recites once more the eternal conditions of our common life and love. I believe in the permanent necessity of the philosophic schools which torment the wits of mankind. It is useless to rave at them as the scientific & scholarly men are apt to do. Their modes of thought lie behind the first assumptions of all that can be practically learned or taught, and will force themselves into consciousness with a few of the learners & teachers, though unsuspected by the rest. And when once they speak out, they will not be put off till their rights have been determined and set clear of false pretensions set up on their behalf. The critical process to which, I believe, this task is possible, gives no new revelation, but re-instates us where we intuitively stood, only with certainty secured that the ground is not hollow beneath us.

It is refreshing to hear of your continued immunity from all the usual disabilities of age. I am your junior by 3 years; but I could not legibly tell you so, had I not glasses for my eyes. And deafness in one ear obliges me to choose my place with care at any meeting where the interest depends on speech or music, and to manœuvre with a companion in a walk to get hold of his right arm. Else, this 9th decade is little different with me from its predecessors, unless it be that my work is slower and cannot be dashed off in haste as in younger days.

I thank you heartily for "The Faith of Jesus." I am with you in devoted acceptance of that faith in its essence, its self-evidence, & its applications; though, to reach it, I should remove some of the alleged reports of it in the Gospels wh. you are able to retain; &, to hold it, do not find it requisite, or possible, to reckon among its effects the "signs & wonders" attached to it in the narrative. The features of a transcendent personality may be guaranteed to us by internal evidence. But external facts must rest on testimony: and *that* is shown, by the historical criticism of the last 30 years, to fail us completely, as I am obliged to own. In this there is to me far more gain than loss: the lines and touches of colour which have vanished from the prior image of Jesus have left his figure, fainter indeed but diviner far than I had conceived before, & clearer than ever of all responsibility for the strange mythology by which Christendom has hid it from view. I have no faith in a religious future for those who renounce their allegiance to

that personality; whether to try a Philosophical Theism, or a bare Ethical Ideal without him.

I remain, always,
Yours with lifelong affection,
JAMES MARTINEAU.

REV. DR FURNESS.

JAMES MARTINEAU TO WILLIAM HENRY FURNESS.

35, GORDON SQUARE,
LONDON, W. C.
April 14. 1889.

MY DEAR DR FURNESS,

Your charming letter of birthday greeting makes me feel as if, with the grasp of your loving hand, I stood by your side on the verge of two worlds but a step apart, — one in the twilight of tender memories, the other in the dawn of brighter hopes. I often think, in these evening hours of life, of what W. H. Channing said to me within two or three days of his departure, — "I have long lived so freely in the invisible future just as in the remembered past, that the boundary of the two worlds has almost vanished and reduced death to nought." To his intensely ideal nature, this was simply true. Those of us who, though in advance of his age, are still day-labourers here, with unfinished tasks that press for completion, may perhaps be pardoned, if they have not yet reached the point of absolute indifference at which his spirit rested in suspense.

Gently as old age deals with me, your wonderful energy far outstrips my poor performances. I have left the pulpit, the Lecture-room, the Public Meeting, and the private dinner party; and now concentrate what faculty I have on quiet work within my own study. *There*, the same subjects engage me which have so long and so fruitfully occupied your thoughts. If the results do not quite coincide with yours, it is from no demur to your fundamental principles, which I heartily accept, but from inability to accept as historical facts the greater part of the reported acts & incidents to which you apply the principles. The fresh light which has been thrown, by the critical investigations of the last 30 years, on the origin and growth and early literature of the Christian Church, seems to me to alter the whole aspect of the problem with which we have to deal, and relieve us of many phenomena for which special hypotheses had been devised to account. A book[1] on which I am at

[1] The Seat of Authority in Religion (1890).

work will ere long, if I live, so much better explain my meaning than this hasty note, that I will say no more.

My congratulations are too late, I fear, to do their duty on the right day. None the less hearty and affectionate are they. Had I known your date, they should have led the way as a prelude, instead of hanging on as an appendix. By the way, I think you have one Senior — in Dr Farley,[1] — and he seems to be your partner in vigour.

Believe me ever, with best wishes and many thanks,

Yours most cordially,

JAMES MARTINEAU.

JAMES MARTINEAU TO WILLIAM HENRY FURNESS.

THE POLCHAR,
ROTHIEMURCHUS,
AVIEMORE.
SCOTLAND
May 27, 1890.

MY DEAR DR FURNESS,

The first use to which I put my escape from London distractions into this mountain nest shall be, to send you my hearty thanks for your two last publications, — the "Conference Discourse" & the "Story of the Resurrection." Both of them I read with the delighted interest which all that you write awakens in me, — none the less that I reach essentially the same result as yours by a different track and at a heavier cost of discarded "impedimenta." I cannot rate the historic elements of our Gospels so highly as you do: but what I have to eliminate as increments of tradition is precisely what confuses rather than clears the entrancing image of the central figure wherein the Human & the Divine characteristics are unified. The Evangelists give us, no doubt (inter alia), some early and genuine *Memorabilia* of the Ministry of Jesus, Matthew of what he said, Mark of what he did & suffered; but, as a whole, their narratives reflect more of his subsequent church than of his personal biography, & fuse together the primary Religion and the derivative Theology in a way which seriously dims the pure lustre of the former. It is the glory of the modern criticism, that it more & more enables us to separate the two.

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[1] The allusion is to the Rev. Dr. Frederick Augustus Farley (H. C. 1818), then the senior surviving alumnus of Harvard College. He was born in Boston 25 June, 1800, and died in Brooklyn, New York, 24 March, 1892.

Notwithstanding the inevitable excisions which reduce the historic gospel to a short & simple compend, I cling with an intense tenacity to the distinctive *Christian* life & name; out of which, as from nothing else, may and must be developed all that belongs to the spiritual perfection of humanity. And I cannot see, without regret, the disposition among our younger men either to begin, de novo, from mere Ethical postulates, at most from abstract Theism, or to go a-hunting among foreign Religions, — Buddhism, the Zendavesta, Confucius, the Vedas, — for something which, as chosen and patronized by them, will never overawe & subdue them. Good as *anthropological studies*, these exotics become imposters when they pretend to capture and redeem the soul. For myself, I would cast my lot with those who keep true to the line of their history, & own their trust to push it on into new latitudes of Divine reality. Let other races do the same: & all perhaps will meet at the same pole at last. Our good & accomplished friend, J. H. Allen[1] (now in London) chides me for narrowness for thus judging; while I rather complain of his cold critical externality to all the religious tendencies which he so impartially reviews. I hope we shall have it out together in friendly converse soon: for he promises to visit me here at the beginning of July, when, in one direction or another, the breezes of the mountains shall blow all our dialectic away.

It is delightful to hear how blest you are in your sons & daughters; it is the joy which fulfills the first prayer and the last of a loving old age. I am so much withdrawn now from the literary world that I cannot say whether the last Vol. of the Variorum Shakespeare is yet known here. I have little doubt that it is: for nothing is more quickly caught up in the book market than any new product of the Dramatic Press, whether original or critical.

Our Unitarian Anniversaries are being held in London this week. I am doubly thankful to be in this retreat: for they are not congenial to me, & I can do no service to them; so the distance between us is a benefit to both, conducing to mutual good-will.

Believe me, dear Dr Furness,
Ever most cordially yours,
JAMES MARTINEAU.

Mr. ALBERT MATTHEWS read a paper on the term Red Man as applied to the North American Indians. He remarked that no attempt had been made to give the history

[1] Joseph Henry Allen.

of the term, that little had been written on the subject, and that the generally accepted notion was that Indians were called Red Men on account of the natural color of their skin. He showed that the adjective red — qualifying various nouns — had been applied to the Indians since at least as early as 1699, and that it had long been accepted by themselves. He then proceeded to quote many extracts, and concluded by remarking:

These extracts are examined in vain for confirmation of the generally accepted notion that Indians were called Red Men on account of the natural color of their skin. On the contrary, we find current in the seventeenth century the curious belief that Indians were born white, and that the darker hue was later acquired as a result of bathings and ointments. But this darker hue was regarded not as red, but as brown or "tawny;" indeed, this last word was considered so aptly descriptive that it was turned into a noun. On the other hand, there is ample evidence to show that red was a favorite color with the Indians at all times, and especially in time of war. Must we not then conclude that Indians have acquired the sobriquet of Red Men by reason not of the natural but of the artificial color of their skin?

Mr. JOHN NOBLE made the following communication:

A FEW NOTES ON ADMIRALTY JURISDICTION IN THE COLONY AND IN THE PROVINCE OF THE MASSACHUSETTS BAY.

A young colony naturally has little occasion for any full code of Admiralty laws or any distinctive Admiralty Courts. It has little concern about those matters which fall properly within such jurisdiction, for it can dispose of them with a fair amount of justice and convenience in its local courts. Until more complex internal conditions and outside relations grow up, it finds this the easiest and most satisfactory way. It was evidently so in Massachusetts. Not until 1650 is there any legislation, even remotely connected with such affairs, apparent in the Massachusetts Colony Records, and the Court records are silent in the early years.

Up to 1644 neither in the Massachusetts Colony Records nor in the records in the so-called Barlow Copy is there more than a single entry that savors of Admiralty jurisdiction. At a Court held 2 June, 1635, controversies which arose between certain parties as to their rights in the ship Thunder were sent to a board of arbitrators for determination.[1] The latter fact in itself, however, proves nothing, for to a large degree the Court records are missing, and where they exist they are conspicuously incomplete, as I have shown elsewhere,[2] and contain little beyond the record of cases of a criminal or of municipal or otherwise public character. Civil cases between individuals seem not to have been recorded at all in the earliest years, and the later records, which are shown to have existed, have been lost from a time beyond the memory of living man. No full records of the Court of Assistants appear till 1673, and of the other Courts at about the same time. Much can be supplied, however, from certified copies found in later cases among the Court files and in the writings of contemporaries, especially of Winthrop.[3]

The Colony Charter of Charles, without the reservation of the Province Charter of William and Mary, gives full power to hold Courts, to "establishe all manner of wholesome and reasonable orders, lawes, Statutes, and Ordiñnces, direc̃cons, and instruc̃cons, not contrarie to the lawes of this our realme of England," and for "the directing, ruleing, and disposeing of all other matters and thinges" for the religious, peaceable and civil government of the Colony, with "full and absolute power and authoritie" to all the higher officers of the Colony, "according to the Orders, lawes, ordiñnces, instruc̃cons and direc̃cons aforesaid, not being repugnant to the lawes and Statutes of our realme of England."

Acting under this authority, and with its usual sturdy independence and its application of good common sense and Anglo-Saxon notions of justice, the Colony probably got safely through all those cases that smelled of the sea, either in the Court of Assistants or in the General Court, without much difficulty, for many years.

[1] Massachusetts Colony Records, i. 154; Records of the Court of Assistants, ii. 54.

[2] Preface to Records of the Court of Assistants, vol. i. p. xi.

[3] Records of the Court of Assistants, vol. ii. part iii., now in preparation, attempts to fill these gaps, as far as possible. See Preface, vol. i. p. xii.

As showing how little distinction was made by the courts between admiralty and common law proceedings in cases before then, Washburn [1] refers to the case of Madame La Tour in 1644, giving some account of it taken from Winthrop.[2] But some twenty years after the first settlement in Boston, questions apparently began to arise, and the necessity of some formal code began to show itself. And here appears the first attempt at legislation — which was apparently attended with only indifferent success:

Att a Courte of Elecc̃on, held at Boston, the 22th 3 Mo, 1650.

Whereas this commonwealth is much defective for want of lawes for Marityne affayres, and forasmuch as there are already many good lawes made & published by or owne land & the French nation, & other kingdomes & common wealths, this court doth therefore order, that the sajd lawes, printed & published in a booke called Lex Mercatoria, shalbe pused & duly considered, & such of them as are approved by this Court shalbe declared & published, to be in force within this jurisdiction after such a time as this Court shall appoynt; and it is further ordered that Mr Bellingham, Mr Nowell, Mr Willoby, Capt. Hawthorne, the Auditor Generall,[3] & Mr John Allen, shalbe a committee to ripen the worke, & to make returne of that which they shall conclud vppon unto the Generall Court, and the time of their meetinge to be the first third day of the sixth moth next –

p Cur̃.[4]

This Committee appears to have been somewhat slack in the duty assigned to it, and —

Att the Second Session of the Generall Court, held at Boston the 14th October, 1651, [it appearing that] sd committee haue not yett mett according as was then concluded, . . . it is ordered by the Court, that the accomplishing of that worke shalbe referred to Mr Nowell & the Auditor generall . . . to make returne thereof to the next Generall Court.[5]

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[1] Sketches of the Judicial History of Massachusetts, p. 68.

[2] History of New England (1853), ii. 192, 196, 198–201. Some later reference to the case is to be found in the Massachusetts Colony Records, iii. 49.

[3] Capt. Nathaniel Duncan of Dorchester and later of Boston was the only incumbent of this office, which was created in 1645 and abolished in 1657.

[4] Massachusetts Colony Records, iii. 193; iv. (i.) 10, but in the latter less full and without the preamble.

[5] Massachusetts Colony Records, iii. 252; iv. (i.) 69.

The second Committee apparently accomplished as little. At any rate, it does not appear how much benefit was derived from the labors imposed, how far they were discharged, or what was the practical outcome.

But whether with or without a code there is no evidence of any change in the jurisdiction, and at all events it is evident that they dealt with piracies and other happenings upon the high seas as if they had occurred on the main land. Exigencies would arise from time to time when the want of controlling laws would be felt.

Incompetency and greed are peculiar to no time or people, and even Puritan Commonwealths are not exempt. Somewhat later it seems to have become necessary to protect the interests of merchants and the lives of mariners from such shortcomings of human nature, and, though perhaps not strictly a matter of admiralty jurisdiction, resort is had to legislation.

At the Session of the General Court in October, 1667, it appearing that "divers unskillful persons, pretending to be shipwrights, doe build shipps & other vessells . . . which are very defective, both for matter & forme, to the great prejudice of merchants & ounors, & the danger of mens lives at sea,"[1] a Committee is appointed to draw up laws to remedy the evil.

For many years after the unsuccessful movement in 1650, the Colony ran on without any distinctive maritime code. The Body of Liberties, Liberty 67, had laid it down as among the rights of the freemen, "to choose yearly at the Court of Election" "all the General Officers of this Jurisdiction," among them the "Generall of our warres" and "our Admirall at Sea" — subject to discharge as therein provided. But the growth of the Colony at last brought about some legislation, and —

Att ye Second Sessions of the Generall Court, held at Boston, 14th of October, 1668.

Whereas, through the blessing of God vpon this jurisdiction, the navigation & maritine affaires thereof is grown to be a considerable jnterest, the well management whereof is of great concernment to the publick weale; for the better ordering the same for the future, & that there may be knowne lawes & rules for all sorts of persons imployed therein, according to their severall Stations and Capacitjes, & that there

[1] Massachusetts Colony Records, iv. (ii.) 345.

may be one rule for the guidance of all Courts in their proceedings in distribution of justice,

a law is enacted containing twenty-seven sections and covering differences between owners, conduct of masters and mariners, penalties to be imposed on them for breaches of duty, questions of wages, provisioning of vessels, conduct of voyages, loss of goods, collisions, and other kindred matters.[1]

There would seem to have been some sort of an Admiralty Court or a Court exercising such jurisdiction in Massachusetts a dozen years earlier, by the mention made in the Danforth Papers of "our Court of Admiralty here," in 1666.[2] It seems most likely that it was no distinct Court, but simply an exercise, as occasion required, of Admiralty powers in the local Courts of the Colony, probably the Court of Assistants, or under the Governor as Vice-Admiral, as the colonists were always equal to the situation at hand, and had no hesitation in finding good legal ground for meeting necessary emergencies.

[1] Massachusetts Colony Records, iv. (ii.) 388; Colonial Laws, 1660 (Whitmore's edition), p. 251.

[2] 2 Massachusetts Historical Collections, viii. 101.

Somewhat illustrating this is a case tried in the County Court in April, 1663, with ar air of piracy about it, in spite of the result the jury arrived at:

John Woodmansey *vs.* { Monsieur Labourne and / Monsieur Laremit

for forceible seazing and takeing away in a way of Piracy the vessell called the Progresse, whereof William Russell was master, being upon lawfull imploiment and laden with fish upon the confines of Nova Scotia or thereabouts which said vessell together with the fish, the one third part of both belongeth to the said Woodmansey, &c. &c.

They were placed in prison in the care of the keeper by John Pease, constable.

Copy of County Court Record at Boston 28 April 1663, states that "nothing appearing against Laremitt, the action proceeded," etc. Jury brought in verdict for the plaintiff £280–6–0 damage and costs of Court £0–44–8. "The jury affermed they medled not wth that of Piracie."[1]

Still earlier will be found cases where the Court of Assistants took jurisdiction, pure cases of Admiralty, and where, when in doubt, they referred the matter to the High Court of Admiralty in England.

Many cases of this sort will appear in the Records of the Court of Assistants, volume ii. — now in course of preparation and to be issued in the near future.

[1] Suffolk Court Files, no. 514. See also nos. 817–826 for a full history of the case. In the last group there are thirty-three papers.

In 1673 appears the first formal legislation as to the trial of "all cases of admiralty."

Att a Speciall Generall Court, called by order of the Council, and assembled together in Boston, 10th December, 1673. [At an adjournment thereof on the 6th of the following January,] It is ordered by this Court & the authority thereof, that henceforth all cases of admiralty shall be heard and determined by the Court of Assistants, and to be issued by the bench wthout a jury, unless the Court shall see cause to the contrary, prouided allwayes this act shall not be interpreted to obstruct the just plea of any marriner or merchant impleading any person in any other Court vpon any matter or cause that depends upon contract, covenant, or other matter of comon æquity in maritine affayres, to be issued according to the knowne lawes of this colony.[1]

Numerous cases under this jurisdiction are to be found in the Records of the Court of Assistants, Volume I., lately issued, which show the variety of causes that came before it and their character. Among them are some interesting trials for piracy occurring not only upon the high seas but within the limits of Massachusetts waters not far from Boston.

The records show the Court of Assistants under this law of 1673 to have sat regularly and frequently as a Court of Admiralty. Besides these regular sittings, a special or additional sitting seems sometimes to have been called upon request, or rather a matter brought specially before it.

Att a Court of Assistants or Admiralty held at Boston on the 15th of April 1686

The Court mett at the time and at the request of Mr Willjam Woodrope of the Island of St. Christophers now Resident in Boston A Court of Admiralty is granted him against Mr John Keech [and another,] to be held at sajd Boston on the 22th of Instant Aprill at three of the Clock in the Afternoon; [and] Att an Adjournment of the Court of Assistants or Admiralty held at Boston 22th of April 1686 [the case is heard, the complaint being for a wrongful attachment and judgment in the County Court.]

The case against Keech as also that against Thornton is recorded at length.[2] As this volume covers the period from 1673

[1] Massachusetts Colony Records, iv. (ii.) 575; Colonial Laws, 1672–1686 (Whitmore's edition), p. 213.

[2] Records of the Court of Assistants, i. 298, 300, 301.

to 1692, it shows that this jurisdiction continued up to the time when the Colony passed into the Province.

There is to be found an instance of the General Court acting as a Court of Admiralty:

Att the second Sessions of the Generall Court, held at Boston, the 11th of October, 1676.

The Court, as the Court of Admiralty resolved, & that by voate, that Robert Orchard, the officer, had not acted regularly in his seizing, &c., and to find for the plaintiff, Daniel Anderson.[1]

The Colony passed away and the Province succeeded. The Provincial Charter of William and Mary made direct mention of Admiralty Courts and reserved to the Crown the right to establish and organize them:

Provided alwaies and it is hereby declared that nothing herein shall extend or be taken to Erect or grant or allow the Exercise of any Admirall Court Jurisdiccon Power or Authority but that the same shall be and is hereby reserved to Vs and Our Successors and shall from time to time be Erected Granted and exercised by Vertue of Comissions to be yssued vnder the Greate Seale of England or vnder the Seale of the High Admirall or the Comissioners for executing the Office of High Admirall of England.[2]

In the absence of any regularly constituted Courts, whatever Admiralty authority became necessary was executed by the local authorities.[3]

As showing that the local Courts took and exercised jurisdiction at this time over matters that savored of Admiralty is the case of Charles La Tour *v.* Thomas Walters, *etc.*, in 1696. This was an appeal from a judgment of the Inferiour Court of Common Pleas on a "Libell . . . as well for and in behalfe of our Sovereign Lord the King as for themselves," brought by the defendants in the Inferiour Court, under "An Act made by the Generall Assembly of this His Majtles province of the Massachusetts Bay, in the Seventh year of His present Majtles Reigne, Entituled an Act to prevent the Supplying of his Majtles Enemies."[4] The jury —

[1] Massachusetts Colony Records, v. 131.

[2] Province Laws, i. 19.

[3] The Commissions of the Governors of the Province as Vice-Admirals will appear in Volume ii. of the Publications of this Society.

[4] Passed 17 August, 1695, Province Laws, i. 220.

find for the defendants. — Confirmation of the fformer Judgment. It is therefore considered by the Court That the s^{d} Informers shall recover the s^{d} Shallop Jacob with her Tackle Apparrell ffurniture Lading on behalfe of His Majesty and themselves in manner as by the aforesaid Act is directed.[1]

There is a large group of papers among the Suffolk Court Files relating to this case and giving much of its inside history: — the Information, plea, judgment and record of the Inferiour Court; a petition for protection and aid as not knowing the English language; the reasons of appeal, and answer thereto; an address to Governor Stoughton (translated), praying the restoration of his goods and vessel; certificates of Naval officers of Boston and of New Castle, New Hampshire; various depositions, a list of the papers, *etc.*, taken on board the shallop, *etc.;* eighteen in all. The spelling of the name of the original defendant, De La Tour, is in various modes.[2]

Whatever of this there was at first fell upon Governor Phips. On some complaints arising as to his performance of such duties Washburn says a Court was created in 1694 consisting of a Judge, a King's Advocate, a Register and a Marshal.[3] But as appears by a letter of Lieutenant-Governor William Stoughton to the Lords of the Privy Council, no judge had been appointed and commissioned in September, 1696, and the Lieutenant-Governor adjudicates upon some fishing vessels that had been brought in as prizes by privateers.[4]

There are no Admiralty records for this early period found upon which to fall back as ultimate authority. Washburn says that the first judge whose appointment he can ascertain was Wait Winthrop, commissioned in 1699 over the Northern District, as it was called, consisting of New York, Massachusetts, Connecticut, Rhode Island and New Hampshire.[5] Douglass says the same. The Commis-

[1] Records of the Superiour Court of Judicature, 1695–1700, ii. 81. This volume, backed 1686–1700, contains also the record of four special Courts of like character, 1686 and 1687, and one 1698.

[2] Suffolk Court Files, no. 3,407.

[3] Sketches of the Judicial History of Massachusetts, p. 172.

[4] Province Laws, vii. 514.

[5] Sketches of the Judicial History of Massachusetts, p. 175; Douglass, Summary, i. 483.

sions ran from the King, under the broad Seal, or the Warrant of the Lord High Admiral, — in reality from appointment of the Lords Commissioners of Admiralty.

The jurisdiction of the Courts was extensive, but is best shown by the records. The Court sat without juries, and where no express Acts of Parliament existed governing the cases before it, was governed by the Civil and Maritime law. An appeal lay to the Court of Delegates in England. No salaries were fixed, and the compensation depended upon the fees for a long period — till 1769, as Washburn gives it; but apparently the salary of the Judge, Auchmuty, was named in 1767 and increased in 1769. The Province at an early date took into its own hands the regulation of the fees. By Chapter 7, Acts of 1716–17, a fee system was established. Some question having arisen whether this was within the province of the General Court of the Province, it was referred to Paul Dudley the Attorney-General, who decided it was within its power, "more especially if the fees of said Court of Admiralty are either uncertain or grievous."[1] The General Court had already, by Act of 1692–93, Chapter 37, established the fees in the other Courts of the Province. Douglass gives the succession of judges, and Washburn follows him.[2]

Winthrop was succeeded by William Atwood, 28 October, 1701, whose district took in also the Jerseys. He was followed by Roger Mompesson in April, 1703, but in the same year the district was divided, and a new Commission was issued to Nathaniel Byfield over Massachusetts, New Hampshire, and Rhode Island. Mompesson held office till his death, 2 January, 1714–15. Byfield, appointed December, 1693, continued in office till 1715. John Menzeis succeeded Byfield, bringing his Commission with him and arriving here 24 December, 1715, and taking his seat in the following March. He died at Boston 20 September, 1728, at the age of seventy-eight.[3] Robert Auchmuty was appointed Judge

[1] Province Laws, ii. 68.

[2] Douglass, Summary, i. 483; Washburn, Sketches of the Judicial History of Massachusetts, p. 175.

[3] Boston Weekly News-Letter of Thursday, 19–26 September, 1728, No. 91, p. 2/2, which contained the following notice:

On Friday Morning last the 20th Instant, died here the Honourable John Menzies Esq; Judge of the Court of Vice-Admiralty for the Provinces of the Massachusetts-

pro tempore by Governor Burnet, according to Douglass. Judge Byfield was again commissioned 25 November, 1728, though his Commission was not received till 10 April, 1729, when he took the oaths of office, and remained till his death 6 June, 1733, at the age of eighty. Robert Auchmuty followed him and held the office till 1747, when he was superseded by Chambers Russell, dying in 1750.[1] Chambers Russell was appointed Judge over the same District of Massachusetts, Rhode Island and Connecticut in 1747, and held the office till his death at Guildford, Surrey, England, 24 November, 1766. On the death of Russell, Robert Auchmuty the younger was appointed Judge in April, 1767, and on 6 July, 1767, was commissioned as Judge over all New England at a salary of £300. His Commission was renewed in March, 1769, and his salary increased to £600. He held office till the Revolution, and, one of the proscribed, left the country for England in 1776.

Among the names of the Deputy Judges as given are Nathaniel Byfield in 1699; Thomas Newton, 1701–08; Nathaniel Hubbard for Rhode Island; George Cradock, 1747, who resigned in 1766 on account of his years and infirmities, and died at eighty-seven, 26 June, 1771;[2] and William Reed, 1766. Brief biographies are given by Douglass and by Washburn of the incumbents of the offices, several of whom also held judicial appointments under the

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Bay, New Hampshire, and the Colony of Rhode-Island, in the 78 Year of his Age, and was decently Inter'd on Tuesday last the 24th Currant.

[1] The Boston Gazette of Tuesday, 1 May, 1750, No. 1572, p. 1/3, contains the following notice:

Last Saturday Morning about 4 o'clock died here the Hon. Robert Auchmuty, Esq; an eminent Attorney at Law; and for several Years Judge of the Court of Vice-Admiralty, also an Agent for this Province at the Court of Great Britain.

Auchmuty's death is also noticed in the Boston Evening-Post of Monday, 30 April, 1750, No. 768, p. 1/2.

[2] The Massachusetts Gazette of Monday, 1 July, 1771, No. 3/2, contains this notice:

Wednesday morning last died here, the Honourable GEORGE CRADDOCK, Esq; aged 87 Years. A Gentleman of unblemished Character. His Funeral is to be attended this afternoon.

The King's Chapel Burial Register records his burial on the first day of July.

For this information I am indebted to Mr. Julius Herbert Tuttle, the obliging assistant librarian of the Massachusetts Historical Society.

Province. One of the extracts from the Records at the end of this communication shows Thomas Steel to have been appointed in 1722.

The extent of the Northern District varied: at first it included New York, Massachusetts, Connecticut, Rhode Island and New Hampshire; then New Jersey was added; New York and New Jersey were not long after withdrawn; and finally it embraced Massachusetts, New Hampshire and Rhode Island only.

A change in the organization of the Admiralty Court seems to have been contemplated and partly carried out in 1764, when Dr. William Spry was appointed a Judge of Vice-Admiralty for all America. On his arrival in Halifax he fixed his headquarters there for "any province of America," and by proclamation set the times for holding his Court. The next year he contemplated removing to Boston and entering upon the duties of the office there, as Supreme Judge of Vice-Admiralty. But this seems never to have been done, and in 1767 he was made Governor of Barbadoes, so that at all events his incumbency as a judge was of short duration.[1]

Beside the regular Vice-Admiralty Courts for general admiralty business there were also special commissions convened from time to time for the trial of piracies committed upon the high seas. Douglass gives some account of these, styling them Justiciary Courts of Admiralty.[2] Their constitution varied somewhat in the different Provinces. In Massachusetts this Commission usually consisted of the Governor, Members of the Council, the Judge of the Vice-Admiralty Court, the Commander of the Royal Vessels of War on the Station, the Surveyor of the Customs for the Northern District, the Collector of Customs; sometimes it seems to have been specially constituted, and occasionally officials from other Provinces appear to have taken part. Dr. Douglass characteristically does not hesitate to criticize the constitution of the regular Courts of Vice-Admiralty:

A Sole judge, without a jury, in Cases of high Consequence; and this Judge too frequently appointed at Random, seems to be an Error

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[1] Washburn, Sketches of the Judicial History of Massachusetts, p. 175.

[2] Summary, i. 484.

in the Constitution. It is true there may be an Appeal to the Court of Delegates in Great Britain.[1]

The crime of piracy was evidently very common, especially in the earlier years of the Province, when it so frequently appears as a branch of Admiralty jurisdiction. Some of the cases have become historically famous, and live not only in the law but also in the literature of the times. The trial of John Quelch in 1704 has become one of the celebrated causes. It was made the subject of an interesting communication to this Society by our associate Mr. Goodell.[2] It was held before a tribunal made up of the Governors and the Lieutenant-Governors of the Provinces of the Massachusetts Bay and New Hampshire, the Judge of Vice-Admiralty in each, the Chief-Justice of the Superiour Court of Judicature, the Secretary of the Province, Members of the Council of Massachusetts Bay, and the Collector of Customs for New England. It was convened in the old Star Tavern in Hanover Street. A full account of the trial has been given by Mr. Goodell in his Notes to the Province Laws,[3] and he has made an exhaustive and learned examination and discussion of various questions involved in it, touching law and procedure. His account is marked by his usual indefatigable research, keen analysis, independent criticism, legal and historical learning, and characteristic ability. The account is another illustration of the value of his Notes in that great work, and of the loss which has been caused by the restrictions in this direction made necessary in the later prosecution of the work under the stricter construction put upon the original Act authorizing the publication of the Province Laws and Resolves.

There was another trial for piracy, that of Robert Munday, at Newport, Rhode Island, before a jury in the local tribunal, in 1703, where some questions seem to have arisen as to its legality, likewise discussed by Mr. Goodell.[4]

Legal questions of various sorts were apparently not infrequent in such trials, and were discussed with more or less warmth in various quarters. Judge Sewall seems to have had doubts on

[1] Summary, i. 483.

[2] Publications, iii. 71.

[3] Province Laws, viii. 386–398. See also Sewall's Diary, ii. 104–111, for a full and graphic story of the expedition after the pirates, the trial, execution, *etc.*

[4] Province Laws, viii. 386.

many points, as appears in his Diary and in letters. He hesitated on the evidence in the Quelch case.[1] He questioned the legality of sending Kidd to England for trial,[2] — a matter of vital interest to Kidd by reason of the difference in the penalty.

Washburn[3] cites also three courts held by Special Commission for the trial of pirates, — one in Newport in 1723, where the Commission consisted of William Dummer, as President, Samuel Cranston, Nathaniel Paine, Addington Davenport, Thomas Fitch, Spencer Phips, John Menzeis, then Judge of the Vice-Admiralty Court of Massachusetts, and Thomas Lechmere ; a second in 1746, held in Faneuil Hall, presided over by Governor Shirley; and a third in 1769, consisting of Governor Bernard, Samuel Hood, the Commander of the Ships on this station, Lieutenant-Governor Hutchinson, Robert Auchmuty the younger, then Judge of the Vice-Admiralty Court, Andrew Oliver, Secretary of the Province, Robert Trail, Collector of Customs at Portsmouth, and John Nutting, Collector at Salem.

The last has a special interest from the fact that John Adams was of counsel for the prisoners, and that he afterward improved the occasion in a characteristic account of the trials. Nearly fifty years later, with a memory as fresh and a narrative as clear and vivid as if of an occurrence of yesterday, in a letter to Jedediah Morse 20 January, 1816, he gives the story: the indictment of four seamen of Marblehead for piracy and murder in resisting a press-gang from the Rose Frigate, on board of a ship of Mr. Hooper of Marblehead, in 1769, just before the recall of Governor Bernard:

> When in law, truth and conscience, the commander of the Rose Frigate ought to have been prosecuted for piracy and murder on the high seas, in illegally sending a pressgang to enslave freemen, and compelling them in self-defence to destroy their invader and intended destroyer; or in the better language of the boatswain of the Rose Frigate, "to deprive honest men of their liberty."

He then describes the affray, the death of Lieutenant Panton and the hand to hand fight; the trial, with its incidents, the legal

[1] Province Laws, viii. 397.

[2] *Ibid.* viii. 386. See also Sewall's Diary, ii. 3, 4, as to the vote in Council and the grounds of his action.

[3] Sketches of the Judicial History of Massachusetts, p. 173 *et seq.*

struggle, the pleas to jurisdiction, the demand for a jury, *etc.*, all overruled; and the mysterious outcome of the whole:

> What has become of the records of this Court, whether they have been sent to Halifax or to London, whether they remain in any repository in Boston, or whether they have been burned like most of the records of this world, I know not.

He is especially severe on Hutchinson for his share in this trial, which he says "accelerated the catastrophe of the 5th March, 1770;" but this seems to be unjust, for the explanation given by Hutchinson apparently clears up all the mystery of the case, and puts him in an attitude very different from that attributed to him.[1]

The frequency of piracy in the earliest years is indicated again by various Resolves of the Provincial Legislature, among them a Resolve (1719–20) ordering a new trial on the petition of Christopher Taylour, setting out a judgment having gone against him by default in the Superiour Court of Common Pleas in 1717, at a time when he was "taken & in the hands of Pirates in the West Indies & uncapable of making his Defence;"[2] and another where reference is made to the "pirates who then infested this Coast" — in granting an allowance to persons who had been impressed by order of the Government to serve in an expedition for the capture of pirates.[3] And again (Laws of 1724–25, Chapter 14) a Resolve for an allowance to Andrew Harradine and others, the petitioners, who had been taken prisoners by Capt. John Phillips of the Sloop Squirrel, and risen and taken possession of the piratical craft, and brought the Captain and his crew into Boston, "where they have Received a just Sentence to Suffer the pains of Death;" granting £224 and a special grant of £30 to Harradine and three others for special merit in the affair.[4] And also a Resolve the next year (1725–26, Chapter 131), for an allowance to the keeper of the gaol "for the charge of keeping William Taylour and William Phillips, two persons Convict of Piracy, but pardoned by his

[1] J. Adams, Works, ii. 224–226, ix. 317–319, x. 204–210; Hutchinson, History of Massachusetts, iii. 232 and *note*.

[2] Province Laws, ix. 678.

[3] *Ibid.* ix. 601.

[4] *Ibid.* x. 437.

Majestie, from May 5th 1724 to June 8th, 1725."[1] Such legislation is perhaps most frequent just about this time.

It was in the first quarter of the century that piracies seem to have been most frequent, and references most often found in various quarters to pirates, piratical depredations, expeditions in pursuit, trials and executions. They appear in Judge Sewall's Diary, in the newspapers of the day, especially in the News-Letter, and in contemporary writings, and there is some incidental mention in the records of the Admiralty Court.

Reference has already been made to the trials in the Court of Assistants in the later days of the Colony. In the Inter-Charter period the "Modest Inquiry &c." in its defence of Dudley, gives him the credit of having effectively cleared out such malefactors from the New England coasts. On the records during the Inter-Charter period there is a single record touching piracy, which is as follows:

Dom. Rex & Whitaker and Shivorick.

Thomas Whittaker & Nathaniell Shivorick standing comitted upon suspicion of Piracie & no Evidence appeareing to prosecute, nor any direct matter to charge them upon relateing to ye same were ordred to be discharged of theyr Imprisonment giveing Bond to be of the good behaviour &c^a^.[2]

In the Suffolk Court Files there are also many papers touching cases of piracy.[3]

[1] Province Laws, x. 626.

[2] From the Records of the "Last court of Appeales, Grand Assize, & generall Goale delivery holden (ut antea) at Boston the 2^d^ day of Novemb^r^ Anno Jacobi Anglia &c^a^ secundo Annoq Domini 1686," fol. 13.

[3] Case of Benjamin Blackleich, in 1694, late of Boston, mariner, charged with piratically seizing ship Good Hope, Jer. Tay, Master, off the Cape Verde Islands. There are seven papers — list of men aboard both ships, depositions, *etc.* (Suffolk Court Files, no. 3033). The jury found no bill, and Tay was "Cleared by Proclamation" in Court and in like manner subsequently discharged. The case is recorded. (Records of Superiour Court of Judicature, 1692–1695, i. 86, 142.) There is also much pertaining to the famous John Baptist, with variations of name: nos. 19,755; 19,554; 28,868. See also no. 26,283. There are also other cases: nos. 10,923; 11,945; vol. mlviii, no. 98. Besides these there are others related in different ways to Admiralty matters; as for instance a copy of "Articles of Warr for Admirall, Vice Admirall & other Officers y^t^ are in ye Duke of Brandenburg's Service" — "Articles 6th, 7th, 8th,

In the Index to the Province Laws, Volume VIII., is given a list of the English Statutes relating to piracy and crimes upon the high seas. Under the Statute 28 Henry VIII., Chapter 15, it was provided that the trial of pirates should be held within the realm and before a Commission of Oyer and Terminer and a Jury. The Provincial Statute of 1696, Chapter 4,[1] followed largely the Statute of Henry and fixed a trial in cases of "Piracy and Robbery upon the Sea," mainly as if committed upon land, before a Commission therein provided for with a jury, within the Province, settling the penalty as death, if the offence was attended with murder. This Statute was practically superseded, however, by the English Statutes.

In consequence of delays occurring under the earlier Statute a more summary mode of trial was provided for by that of 11–12 William III. before a special Court without jury; and the crime was made capital. Statute 4 George I., Chapter 11, gave the right to try piracies in the British Colonies in America under the old Statute of Henry VIII.[2]

In the interval after the Revolution broke out and before the establishment of Massachusetts as a free and independent State, various Acts were passed by the General Court establishing Maritime Courts and regulating their jurisdiction and procedure.[3] At first such courts were mainly prize courts, later they were to deal with questions of seamen's wages, salvage, and the usual matters of Admiralty jurisdiction. An appeal lay to the Superiour Court of Judicature and to the Congress. The civil law was to be

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14th, 15th, 32th." The paper (no. 28,540) is without date. Some of such papers have been cited in this communication.

A case in which the Duke, "the Great Prince of Brandenburgh," is concerned is Paul Sharrot *v.* Marcellus Cocke, "Att a Court of Assistants or Admiralty . . . the 4th of August, 1681" (Second Booke of Records, fol. 126; Records of the Court of Assistants, i. 179). The original papers in the case, ten in number, are in Suffolk Court Files, no. 2,031. This case is illustrative of the jurisdiction of the Court of Assistants in Admiralty Matters, and its mode of handling them, already adverted to, so many instances of which appear in the first volume of its records, lately issued. It shows, too, the preservation of the original files of these early cases, not infrequently to be found in the miscellaneous collection entitled Early Court Files of Suffolk.

[1] Province Laws, i. 245, viii. 386–398.

[2] *Ibid.* viii., Index and Notes.

[3] *Ibid.* v. 436–441, 462–468, 474, 503, 806–808, 930, 931, 1077, 1173–1175.

followed where no special provision was otherwise made. They sat without a jury, though in certain controverted questions of fact a jury might be brought in.

At times there was more or less friction between the Superiour Court of Judicature and the Courts of Admiralty, in consequence of the power claimed by the former to issue writs of Prohibition to restrain what it considered any undue exercise of jurisdiction by the latter. This was not unnatural, considering the difference in the constitution of the Courts, and the source of their authority, each jealous of its own prerogatives; and some political history is involved with the controversies. The officers of the Crown, too, took offence at the exercise of such a power, and the Province suffered some complaint in consequence. Dummer in his Defence of the Charters demonstrates the legal existence of such power, its necessity in preserving the liberties of the people, and claims that it was never improperly exercised.[1] The legal source of this power is thus given by Dummer:

> The rights of the Courts of Common Law within the Province of the Massachusetts to restrain the excesses of the Admiralty jurisdiction, are not derived from their Charter, but from subsequent laws of the Province, confirmed afterwards by the Crown.[2]

Whether the instances of its use were so infrequent as he claims would seem open to doubt. It would appear that it must have been exercised on many more occasions than he says, but only a careful investigation and a search of the records would reveal the actual fact. He may have meant only those cases which were important in themselves or involved some important and disputed point of law, disregarding those of lesser consequence.

There is the famous case of Scollay *v.* Dunn, reported in full in Quincy,[3] with subsequent Notes — where the arguments of Counsel and the opinions of the Judges are given. Judge Sewall refers to a case where the writ was issued:

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[1] Cited in Washburn's Sketches of the Judicial History of Massachusetts, p. 159.

[2] Defence of the New England Charters, p. 26; Quincy's Massachusetts Reports, p. 82.

[3] Quincy's Massachusetts Reports, pp. 74-83. The record of the case is found in Records of the Superiour Court of Judicature, 1763-64, vol. xxiv. fol. 107.

Jan. 29. 1716/1717 — Super^r Court at Charlestown held by the 5 Justices with their new Comissions from Govr Shute. . . .

The afternoon was taken up with the Admiralty cause. Mr. Auchmuty and Smith for the Libel, Mr. Dudley and Vallentine against it. Court unanimous in the Prohibition.[1]

This is evidently the case of Thomas Hutchinson and others *v.* Daniel Wybourne, where the final writ to Judge Menzeis of the Vice-Admiralty Court is ordered to issue.[2] There is also the earlier case of John Oulton and others *v.* John Stacy and others,[3] where the writ was issued. In the same volume is another, that of Robart Manderson, sailor, *v.* John Hughs;[4] and in John Hilman and others, complainants,[5] reference is made to the issue of a writ to the Admiralty Court on 12 November, 1720, but the record of that case does not appear.

In some of these cases the ground of the application and of the determination was that the cause of action arose in Boston, and not upon the sea, and that jurisdiction lay only in the local Courts.

Sewall refers to another case in 1725, though the case itself does not appear on the Records of the Superiour Court:

Decr 17, 1725.

Judge Davenport and Judge Quincy came to me with Mr. Rolf about a Prohibition in Mr. Robinson's Admiralty Case.

'Tis to be Try'd at Charlestown Court.[6]

There is a case in the Admiralty Records,[7] House *v.* Gibbs, where Mr. Auchmuty pleaded to the jurisdiction of the Court. Nothing is said in the record about a Prohibition, but in the mar-

[1] Diary, iii. 118.

[2] Records of the Superiour Court of Judicature, 1715–1721, vol. iv. fol. 169.

[3] *Ibid.* fol. 142. To these cases I had recourse in framing a writ some twenty-five years ago. The writ had several times been ordered in the Supreme Judicial Court to issue, as appeared from the Reports, but seemed never to have been actually drawn up and issued, the order for it being at once respected and fulfilling all purposes. No precedent was found within the days of the Commonwealth. The forms found in those old cases of more than one hundred and fifty years before furnished concise models to work upon, which avoided the prolixity and cumbrousness of the English writs, too unwieldy in cases of emergency and stress.

[4] *Ibid.* fol. 259. [5] *Ibid.* fol. 338. [6] Diary, iii. 369.

[7] Book No. 2, fol. 188, 30 January, 1724.

gin under the title of the case is written Prohibition. The Court, however, proceeded with the case.

In the case of Edward Durant *v.* Court of Admiralty, the plaintiff presented an "Information and Suggestions" by his counsel John Read for a Writ of Prohibition, setting out that one James Scolly, an officer of the Customs, styled a Waiter, "preferred a Memorial to Thomas Lechmere, Esqr, Surveyor Genl, &c," and "another to John Menzys, Esqr, Judge of Vice Adm^{lty}, on account of abuse to himself s^{d} James Scolly," and that a libel and complaint by Lechmere and Scolly had been brought against the plaintiff, and praying "that a final Prohibition be awarded forbidding the Judge of the Court of Admiralty to hold plea of this cause, 14th June 1723." The Superiour Court on 6 June issued a temporary writ and on 7 June, "after a full hearing," a final and peremptory Writ of Prohibition.[1] As the case does not appear on the Admiralty Records, the Court evidently obeyed the writ.

A letter from Samuel Shute to Lieutenant-Governor and Acting Governor William Dummer, of which a copy was given at the time, touches on the disagreements and collisions:

ST. JAMESS, June the 5th, 1726– . . .

The affair between the Judges of the Province, and the Officers of the Admiralty and Customs, will be quickly brought to a Conclusion.

It seems very strange on this side the water that the Judges should support any of their proceedings by Acts of Parliament that were made before New England was settled; or any Acts where the Plantations are not mentioned within the Act.

For where they are not specified, the Laws made in England cannot affect them, one way or the other. SAM^{L} SHUTE.[2]

Bearing on this subject is a copy of a "Memorial of the Admiralty and Custom House Officers," dated at Boston, 8 October, 1730, "To Gov. Jonathan Belcher Vice Admiral of His Majesties Provinces of the Massachusetts Bay in N. E. &c. &c.," signed by —

NATHANIEL BYFIELD *J. V. Adm.*
ROB^{T} AUCHMUTY *Advo. Genl*
JOHN BOYDELL *Reg^{r}*
CHA. PAXTON *Marshall*
JA. STEVENS *Survey^{r} General*
JOHN JEKYLL, *Collector.*
W^{M} LAMBERT, *Comp.*
JONA. PUE, *Survey^{r} & Searcher*
W^{M} FAIRFAX, *Collector,*

[1] Records of the Superiour Court of Judicature, 1721–25, vol. v. fol. 117; Suffolk Court Files, no. 16,953. [2] Sewall's Letter-Book, ii. 210.

complaining of the indifference of the Provincial Judges to breaches of Acts of Trade, and the "incroaching proceedings of such Judges."[1]

The Admiralty records for the Provincial period, now extant or at least accessible and in the form of regular records, are far from complete. The gaps possibly could be filled to a considerable extent by research in the Massachusetts Archives. Among the records now in the Supreme Judicial Court are five books, which after drifting about in devious wanderings brought up a few years ago in the Library of the Boston Athenæum. These were transmitted to the United States District Court for Massachusetts, by which not long ago through the courtesy of Mr. Justice Gray of the Supreme Court of the United States and of our associate Judge Francis C. Lowell they were sent to the Supreme Judicial Court, among whose records they have at last found their proper and legitimate abiding place. They bear the marks of age and hard usage and consist of "Records of Admiralty," Book No. 2, 1718–1726; a second volume "At a Court of Vice Admiralty holden at Boston," 1726–1733; a third "At a Court of Admiralty holden at Boston," 1739–1745; a fourth "Admiralty Book & Acc^{t} of Sales," July 22, 1743 to 1765, which contains no records; and the fifth "At a Court of Vice Admiralty holden at Boston," 1765–1772. They are full of most interesting matter and in them lies much of the history of Admiralty for that period. The first volume, the earliest, is missing, and the dates above show many gaps.

Some extracts have been made from one of the volumes before mentioned, not so much for their importance as cases, as to indicate something of the variety and extent of the jurisdiction exercised, beside the more common cases involving breaches of trade laws, violations of treaty stipulations, frauds on the revenue, seamen's wages, collisions, and similar matters, that come up in Courts of Admiralty; and some also for a certain curious character or interest of their own.

The first is a case somewhat curious as showing the enforcement in the Province of a very ancient royal right, and also the fact that in those early days whales still frequented Massachusetts Bay and that the industry of whale fishing was of value. According to Blackstone —

[1] Suffolk Court Files, no. 30,398.

Another ancient perquisite belonging to the queen consort, mentioned by all our old writers, and therefore only, worthy notice, is this; that on the taking of a whale on the coasts, which is a royal fish, it shall be divided between the King and queen; the head only being the King's property, and the tail of it the queen's. De Sturgione observetur, quod rex illum habebit integrum: de balena vero sufficit, si rex habeat caput, et regina caudam. The reason of this whimsical division, as assigned by our Antient records, was, to furnish the queen's wardrobe with whalebone.[1]

In passing, it may perhaps be questioned whether the "Antient records" were as sound on natural history as on common law.

Again he refers to the King's right to royal fish, as a branch of his ordinary revenue, when either thrown ashore or caught near the coasts, the important regard attached to it in ancient times, its origin, and the claim and allowance of it in the Statute "de prærogativa regis" (17 Edward II., Chapter 11), and also the distinction between whale and sturgeon before mentioned.[2]

Somewhat earlier than this case, one of the complaints made against Governor Dudley was the claim made by him under this ancient right:

(Under a Pretence of drift Fish) what Whales are taken by Her Majesty's Subjects, he takes from them by Force, not giving them the Liberty of a Tryal at Common Law, but for his own Ends, decides the Matter in Admiralty, where his Son Paul is the Queen's Attorney and Advocate, thereby encroaching the whole to themselves, a thing never heard of before, and very much to the Prejudice of Her Majesty's good Subjects there, and that without Remedy.[3]

I.

Lord High Admiral *vs.* Bassett } At a Court of Admiralty holden at Boston before the Honble John Menzeis Esqr July 11th 1719~

June 5th 1719 James Smith Esqr Exhibited an Information in behalf of the Lord High Admiral of Great Britain or the Right Honble the Lords

[1] Commentaries, Book i. ch. iv., citing Bracton, Britton, Fleta and Prynne.

[2] Blackstone, Book i. ch. viii. § 10.

[3] Deplorable State of New England, 5 Massachusetts Historical Collections, vi. 39.

Comiss^{r} for Executing that office against Wm Bassett of Sandwich within this Province for a certain Royal Fish called a Finback which was ejected by the Sea near that place as p Information on file more fully may appear. The Information was filed and allowed and Publick Notifications & Advertisements Issued out for all Persons pretending any right or Interest therein to enter and maintain their respective Claims betwixt and the 9th day of July next ensuing or they will forever be excluded: Accordingly Messrs Joshua Attwood Elisha Parker and Obadiah Buttler lodged their Claim as on file and had a Summons for Witnesses to appear on the 9th of July aforesaid in order to support and maintain their Claim. On the day aforesaid the Court was opened and the Information read Mr Auchmuty for the Claimers moved for further time in regard their Witnesses were not come, whereupon the Judge continued the Case to the 11th Ins^{t} and being on that day called. Mr Auchmuted [Auchmuty] moved for longer time which the Advocate General opposed and moved for Judgement according to the terms of the Libel; and the Judge pronounced this Decree Viz^{t}

> Having considered this Libel and that tho' it be more than a year and a day since the Seizure of the Finback libeled no Person hath appeared and Instructed any Intrest therein albeit Several Dyets and Continuations have been Indulged for that effect I therefore Decern Decree and Declare that the Same belongs to the Lord High Admiral as one of the perquisites of Admiralty and Decree Col. Bassett to deliver or hold compt for the value thereof to the Governour of this Province as Vice Admiral and find the value thereof Subject and liable to the Costs of Suit taxed to four pounds eight shill$^{\sim}$ & 4^{d}

Sic Subscribitur

Att$^{\sim}$ JOHN BOYDELL *Reg^{r}* J. MENZEIS *J. Adm^{r}*:[1]

There are several other cases in the same volume (Records of Admiralty, Book No. 2) where the same right was claimed and the drift whale decreed to be a perquisite of the Lord High Admiral.

LORD HIGH ADMIRAL
v.
MAYHEW — 26 May, 1719, fol. 32.

"A Certain Whale Cast ashoar on Martha's Vineyard" —

[1] Records of Admiralty, 1718–1726, Book No. 2, fols. 32, 33.

ADMIRAL
v.
DYER &c. 19 November 1722, fol. 122.

A Libel in behalf of the Admiralty exhibited by John Valentine, the Advocate General,

"Complaining that the Defend^ts well knowing that a Whale was seized as a drift whale and condemned in this Court, did afterwards cut from the s^d Whale a Quantity of Blubber."

ADMIRAL
v.
WHALE 14 June 1723, fol. 145.

To recover the proceeds of a drift Whale taken off Martha's Vineyard —

ADMIRAL
v.
WHALE 23 August, 1723, fol. 154.

"Against a drift Whale come ashoare about Scituate or Cohasset" —

Another case appears where the claimants prevailed against the Admiralty.

II.

At a Court of Admiralty holden at Boston before the Honble John Menzeis Esqr

March 29th 1720.

High Adm^l } *vs.* Whale } January 1719. Mr Valentine Exhibited a Libel in behalf of the Lord High Admiral against Capt Lobdell for a Whale drave on Shoar at the latter end of January or begining of February last past on Nantaskett als Hull Beach. The Information was allowed to be heard on the last Munday in March at 4 a Clock in the afternoon and in the meantime Citations and Publick Notifications were published for all persons Interested therein to appear at the time prefixed accordingly on the 28th day of March the Court was opened and the Information read and Ezekel Cushion put in a Claim in behalf of himself and others wch the Judge examined into, and on the 29th Curr^t at 3 a Clock in the afternoon

The Judge declared the Whale was no perquisite of Admiralty and that it properly belonged to the Claimors & ordered

them to pay the Costs in the first place & then the acc^{t} of Charges which they allowed to be just out of the value.

Sic Subscribitur

Att.~ JOHN BOYDELL *Reg^{r}* J. MENZEIS *J. Adm.*[1]

There are also a couple of cases where a controversy arose between persons as to their rights and interest in captured whales, in one of which there is a recognition of a possible right in the Admiralty, which, however, was not actually claimed. Both illustrate the style of proceeding in the Court of Admiralty.

III.

Griffin & Comp^{a} *vs* Thomas, & alios } At a Court of Admiralty holden at Boston before the Honble John Menzeis Esqr February 25th 1718

February 19th Samuel Griffin Exhibited a Petion in behalf of himsef and Company Setting forth, That your Petitioner in company with others being at work on a large Whale on the 27th day of November last on the High Sea about a league from Cape Anne, the same did mortally wound in Several Places, but by reason of Stormy Winds and night coming on, they lost sight of her, leaving an Iron in the Body of said Whale with a Warp, Drug and Buoy~ That on or about the 10th day of December following the said Whale was found dead by Gideon Thomas, Arthur Low, and Robert Standford on this Coast near Marshfield in the County of Plymouth, and y^{r} Petiti^{r} having claimed her and fully made out his just right & property by giving unquestionable Marks of his having killed her in Company with Others at the time and place aforesaid left her in the Custody of said Persons to be by them Cut up and the produce to be disposed of as your Petitioner should direct. And whereas your Petitioners right to the said Whale is controverted by said Salvers, notwithstanding the p^{r}misses, he humbly prays your Hon^{r} wou'd be pleased after due Citations and Monitions Issued out to all Persons concerned to hear and allow his Claim as above and by your Definitive Decree the said Whale to him and Comp^{a} to adjudge as being by him and them killed on the High Sea, with such an allowance for Salvage as the Law in such Cases requires &c

The above Petition was filed and allowed to be served and heard the 25th Ins^{t} at 3 a Clock P.M. and the Judge Ordain'd Notifications to be

[1] Records of Admiralty, 1718–1726, Book No. 2, fol. 50.

fixed up in the Town house in the usual Manner which was Accordingly done and also advertised in the Publick news paper at the Instance of Mr Smith who was advocate for the Petit^{rs} on the 25th Ins^{t} aforesaid at the time appointed the Court was opened and the Defend^{ts} were called all whom appeard Except Sandford as also all other Persons were call'd by the Marshal that pretended any right or Intrest in said Whale. Mr Valentine s^{d} that he appeared in behalf of the Vice-Admiral and moved that the Kings property might be determin'd (said Whale being then under Seizure) before any Persons right therein is determined. Mr Smith said it was the Mans own Petition and not brought in by him by way of Libel and that the King takes claim when no Person proves a right and that the Petit^{r} can try his right with no other Persons but the posessors. Mr Auchmuty on the same side with Mr Valentine s^{d} the Whale was Seized in behalf of the King and that there ought to have been Citations Issued out in his behalf and that these Defend^{ts} ar made out of Colour & amuzement after more Debates as on file, several Depositions were taken on behalf of the Petition^{r} and the Defend^{ts} declared the[y] durst not deliver up the Whale because she was under a Seizure; Mr Smith reply'd that cou'd not alter the Property, and that the Defend^{ts} ought to be compelled by a Decree of this Court to deliver up the Whale to the Petit^{r} who had the sole property and possession therein. Thereafter the Court was adjournd to the 26th Ins^{t} at 3 a Clock P.M. and being again opened at that time Mr Smith moved for a Decree whereupon the Judge pronounced the following Interlocutory Viz^{t}

> Having heard seen and considered this Petition with what is alledged on behalf of the Petitioner and the Defend^{ts} acknowledgement and declaration as on file, as allso the allegations of his Majestys Intrest in the Whale Acclaim'd, and being therewith and with the Evidences adduced in the Case Maturely advised I find it proved, that the Petitioner and Company gave the Mortal wounds to the Whale in Controversie and whereof she dyed, I find also that by an Agreement between the Petitioner and the Defendants who had found her dead on Shoar, that they the Defend^{ts} were to break her up and to be accountable to him for the produce But in regard the Vice Admiral hath granted a Warrant for her Attachment that the produce may remain Secure untill his Majestys Intrest therein (as being a frift Whale) be determin'd, And that the Bone & Oyle are not as yet wholy prepared and Try'd for use I supercede to Adjudge

and Decree the same to belong to and be Accountable for to the Petitioner until the 10th day of March next; and allows to the Defendrs to Summons John Sable that he may then appear in Court and alledge what he can he being the Person Imploy'd by the Vice Admiral in that affair as Water Bayliff; and also Ordains the Register of Court to acquaint his Excellency of the foresaid Dyet, that his Majestys Advocate General or such others as his Excellency shall think fit may be appointed to appear and plead his Majestys Intrest therein (if he any have) at that Dyet, with certification &c and Ordains the Defendrs or Others to retain the possession as they now have it Untill the said Day; and finds and Declares the Defendrs liable to the Costs of this Suit taxed to £8 „ 2 „ 6 and Decrees them to pay the same and to have retention thereof in accompting for the produce primo low~ Sic Subscribitur

J. MENZEIS *J. Ad:*

Accordingly the Court was adjourned to the 10th of March and John Sable and others were Summonsed to appear on that day and the Court being opened it was adjournd to the 11 Instr because it was Charlestown Court and the Lawyers cou'd not attend, on the 11 Instr at 7 a Clock A.M. the Court being opened Mr Smith Insisted no Person cou'd appear in behalf of the King in this Court without his consent and argued very Strenously on that head, whereupon Mr Valentine declared he appear for one Clark then the[y] proceeded to a further Tryal and several Depositions were taken in the Case upon Oath, after which Mr Valentine moved the Case might be continued till the next morning at 7 a Clock in regard Clarke one of the Principal Evidences was not Come but was Immediately Expected; accordingly the Court was further adjourn'd till the 12th Instr at the time aforesaid when Clark was three times Solemnly called but did not appear. Thereafter the Judge pronounced the following Definitive Decree Vizt~

Having reasumed the Consideration of the Case together with the Oaths of the Witnesses and other Writts produced as Extant on file I Adhere to the former Interlocutory finding the Petitr killed the Whale in Controversy; and find and declare his right thereto; and Decree the Defendrs to deliver to the Petitioner the whole produce of the Whale as belonging to him; and find that Thomas Clarke hath no right thereto and in regard the Defendrs did acknowledge the Petitioners Intrest and that the same was Intrusted by

him wth them to be prepared and try'd, that they ought to be liable to no part of the Charge of Prosecution, but that the Petitioner ought to pay the same and Decern & Decree him accordingly to pay the Costs taxed to £8 „ 2 „ 6 (as aforesaid) Reserving to the Petitioner to Insist against the other Competitors for relief of what proportion of the Expence he hath been put to since pronouncing the first Interlocutory as accords ~ Sic Subcribitur

Att^r^ JOHN BOYDELL *Reg^r^* J. MENZEIS *J. Adm.*[1]

IV.

At a Court of Admiralty holden at Barnstable before the Honble John Menzeis Esqr February 4th 1720.

Davis &c^a^ *vs* Sturges &c^a^

January 23 Robert Robinson Esqr Exhibited a Libel in behalf of Seth Davis of Barnstable Harpeneer and Jonathan Davis of the same Place Steersman whale Fishermen, and others their Partners against Thomas Sturges and Joseph Dimick of Barnstable aforesaid Whale Fishermen, which Libel was filed and allowed to be heard at Barnstable on the 1° of February at 2 a Clock p. m. and warrants Issued out accordingly. At the time and Place appointed the Court was opened and the Parties being present the Libel was read and Imports in Substance. That your Propon^ts^ being on the 9th of January in a whale Boat with four Persons more upon the High Seas not far from Barnstable a Fishing for Whales between the said Barnstable and Cape Codd at that time upon the High Seas your Propon^t^ Seth Davis being Harpeneer with his Harping Iron struck and wounded a large Cow Whale by means whereof your Propon^ts^ Possessed themselves of the said Cow Whale and to which said Harping Iron their Main Warp was well fastned and tackled and the said Whale being very large and strong your Propon^ts^ were Obliged to call to the Defend^ts^ who were in another Boat near them for their assistance is taking the said whale and at the same time proposed to them that they should have an eight part for their pains and trouble (which they accepted of) and the said Whale in her Agonies & Strugling with your Propon^ts^ so Intangled the said Wharp about the Arm of one of your Appel^ts^ Men which was in the same boat with them that she broak his Arm And the said Defend^ts^ at the desire of your Proponts and upon the terms aforesaid Did set in with your Proponents to work in killing of the said Whale and

[1] Records of Admiralty, 1718–1726, Book No. 2, fols. 26, 27.

soon after she dyed and was brought on Shoar at Barnstable aforesaid by your Appel^{ts} and the said Defend^{ts} Sturges and Dimick and they Instantly cut up the said Whale together. Notwithstanding which the said Defend^{ts} have Unjustly taken the said Whale into their Possession and Detaine the same from your Propon^{ts} to whom of right she properly belonged &c^{a} The Defend^{ts} moved for time wch was allowed to the 2^{d} Ins^{t} at which time the Court was again opened and Mr Otis for the Defend^{t} moved for further time, and upon Mr Auchmutys appearance in Court it was adjourned to the 3^{d} Ins^{t} at 8 a Clock A. M. at which time the Court was opened and the Parties appeared with their Advocates and Evidences who were all Examined upon Oath whose Testymonys are Extant on file And After a long and full hearing on both Sides the Court was adjourned to the 4th Curr^{t} on which day the Judge Decreed as follows

Having considered the Libel and Plea thereto given in by the Defend^{ts} together with the allegations and Declarations of both Parties as emitted by them, as also read heard and considered the Oaths and Depositions of the Evidences and others adduced in the Case, and being therewith and with the Grounds of the Several Claims to the Property thereof maturely advised, after hearing of the whole allegations answers and Replications made by the Attorneys on each side I find it proved That Jonathan Davis and Comp^{a} on the day libeled struck the whale in Controversy before any other came up, and that their Iron was fast to her and whilst so under their Power; they called to Thomas Sturges & Comp^{a} to come and assist them to kill for which they offered ⅛ part, and that Immediately after the call he came in, but before he could get up so as to put in his Iron also, by Lamberts Arm in Davis's Comp^{a} being broke, the Warp was let Slip I find it also proved That Jon^{a} Davis and Comp^{a} did continue in the pursuit for some small time in Comp^{a} with Sturges and then went on Shoar with the wounded Man, and Mr Sturges continued in the pursuit, and that Jon^{a} Davis and Comp^{a} did Speedily within a small time set out again to pursue their Game, and were Informed that Sturges had struck and killed the Whale with the assistance he had called in. I find also that Davis's Warp all the while remained fast to the whale, and that as having a right of Property he did work in bringing the whale to Land. I find also that Sturges persisted in the pursuit till the Whale was killed and was the first Boate that Discovered her on the Eleventh day, and that Sturges in absence of Davis had called in two Boats to his assistance after he had struck the whale to which two he promised ⅛ part. And upon the whole after deliberate Consideration of the various Circumstances of the

Case and having regard to the Custom amongst the Fishermen I Declare and Decree 5/8 parts to pertain to the Plaintiffs and to be delivered or to be accounted for by the Defend^rs if disposed of, and 3/8 parts to pertain or belong to the Defend^rs in full of their Interest therein, and that with the burthen of 1/8. promised to the two assisting Boats called in by him and find that each of the Parties had Probabilem Causam litigandi and therefore that the Costs of Court & Suit as the same are taxed Extending to Seventeen pounds Seventeen Shillings and Eightpence is to be deducted out of the 7/8 parts, paid by the Plaintiffs & Defend^rs Proportionally according to their Interest therein. As also I Decree five pounds to be paid to Samuel Lambert towards the Defraying the Expence of his cure and as a Moderate gratification and acknowledgem^t for his Misfortune to be paid out of the 8 parts proportionally and after the same manner I Decree the Expences of cutting up and preparing the Oyle to be paid out of the whole 8 parts proportionably and as to the Plaintiffs & Defend^rs their own Expences and the Extraordinary Charge they have been put I find them respectively liable thereto without relief from the other.

Att^r JOHN BOYDELL *Reg^r* J. MENZEIS *J. Adm.*[1]

There is a case (28 June, 1720) having a sea tinge of piracy about it, where the petitioners, alleging —

That on or about the 13th of April last in the Harbour of Cape Porpus als Arrundell, they Surprized and Seized a Sloop called the Sarah & Samuel in the Possession of and under the Command of Sundry Pyrates, which happens to be claimed by Sundry English Gentlemen at Philadelphia [and] Praying that in Consideration of their good Service, Expences and Disburstements, that they may be allowed a just and proper Salvage, as is Customary in like Cases &c. —

there is entered an elaborate decree finding the sloop and cargo liable to salvage, and distributing the proceeds.[2]

Another extract is a copy of the Order issued by "His Majesty in Councill," upon the representation of "Capt. Thomas Smart[3]

[1] Records of Admiralty, 1718–1726, Book No. 2, fols. 67, 68.

[2] *Ibid.* fol. 57.

[3] The Captain had an affair of honor with John Boydell, the Register of Court of Admiralty, as appears by the Records of the Superiour Court of Judicature, 1718, fol. 259, Dec. Ad^t.

Capt. Thomas Smart and John Boydell "fought a Duil upon Boston Comon" — in the middle of the forenoon — each drawing his sword and Boy-

Command[r] of His Majesty's Ship the Squirrel," which will serve as an illustration of certain modes of procedure and the relations of the New England Courts to the Crown.

V.

At the Court of S[t] James's y[e] 9th May 1719.
Present.
The Kings most Excellent Majesty

Lord Chancellor	Earl of Lincoln	Lord Visc[t] Cobham
Lord President	Earl of Westmoreland	Lord Torrington
Lord Privy Seal	Earl of Carlisle	M[r] Comptroler
Lord Chamberlain	Earl of Radnor	M[r] Vice Chamberlain
Duke of Montrose	Earl of Berkley	M[r] Secreta[r]y Craggs
Duke of Roxbourge	Earl of Holderness	M[r] Chan[r] of y[r] Dutchy
Duke of Manchester	Earl of Ilay	Lord Cheif Just[ce] King
Marq[s] of Annandale	Earl of Tankerville	M[r] Hampden
Earl of Hallifax	Earl of Stanhope	M[r] Wills

Upon reading this day at the Board a Memorial from the Commiss[rs] for executing y[e] office of Lord High Admirall of Great Britain &c. dated the 2[d] of Jan[r] 1718 in y[e] words following Viz[t]:—

It having been represented to us by Capt. Thomas Smart Comman[dr] of His Majestys Ship the Squirrell appointed by us to attend on y[e] Government of New England, that having Seiz[d] at Canso on y[e] 5th day of Octo[r] last, and brought with him to that Government two french Vessells which were fishing & trading there Contrary to y[e] 5th & 6th articles of y[r] treaty of Peace & Neutrality in America one of w[ch] vessells is a Brigantine, called y[e] Katherine, and y[e] other a Sloop Named y[e] Abigail, als Latrois Amis, and that notwithstanding both of them have been condemned at y[e] Court of Admiralty there, as Lawfull Prizes or Seizures, and Confiscated with there Loading to his Majesty & y[e] Said Capt. Smart as Captor allowd to dispose thereof, after appraisemant, pursuant whereunto he took possession of them, The Governour of New England hath arbitraryly endeavoured to take them from him, and after y[e] Decree of y[e] Judge of y[e] Admiralty, Sent the Marshall of the

dell receiving a slight wound in his arm. As a result of which they were sentenced to "pay a fine to his Majesty of Tenn pounds each, suffer four and Twenty hours Imprisonment" and both bound over till next Court in May, the Captain in one hundred pounds and Boydell in fifty.

Vice Admiralty aboard, By Virtue of a Warrant under his own hand, and Seale, to take them out of his possession under pretence that his Security was not Sufficient and that the Country must be answerable, under which pretence as the Captn represents, he Hopes to procure a Grant of them from his Majesty, alledging that what Service he had done, was perform'd by his Orders and that of the Council of New England: We do most Humbly propose unto his Majesty, that Since the said two vessells, have been taken by Capt. Smart & try'd & Condemned by ye Court of Admiralty in New England, His Majesty will be graciously pleas'd to extend his Bounty to him ye Said Capt. Smart & ye officers & Compy of ye Sd Ship ye Squirrell By permitting him to dispose of the Vessells with their Cargoe & all things belonging to them & to grant them ye whole produce thereof, to be divided in ye Same Manner as was done ye last warr, as an Encouragement to them for the service they have performed, & to other Commandrs & officers of His Majestys Ships to do their best Endeavour, to do ye Like for ye future, and that His Majesty will be also pleas'd to send his Commands to ye Governour of New England to Cause ye Vessells, with everything that belonged to them to be forthwith restored to Capt Smart, that so, he may be at Liberty to dispose of them to ye use of himself, Officers & Ships Compy accordingly: which is nevertheless most Humbly Submitted to his Majesty:

Admty office 2d Jany 1718 J. BURCHETT

By Command of their Lops J. JENNINGS W. CHETWIND Jo. COCKBURNE, Jnº NORRISS CHAS WAGER.

His Majesty in councill taking ye Same into consideration, is pleased to approve thereof and pursuant thereunto, to order, as it is hereby ordered, that the Said two vessells, taken by Capt. Smart Commander of His Majestys Ship ye Squirrell, and which were tryed & Condemned by ye Court of Admiralty in New Engd be forthwith restored to Capt. Smart and that he be at Liberty to dispose of the said vessells wth their Cargoe & all things belonging to the same, and the whole produce thereof be divided among ye officers & Compy of ye said Ship Squirrell, in ye same manner as was done ye Last warr, as an Encouragemt for ye service they perform'd in taking ye said two Vessells: Whereof the Governour or Commandr in chief of New England for ye time Being, and all others whom it may concern, are to take Notice, and Yeild due Obedience to his Majestys pleasure herein signified:

ROBT STALES.[1]

[1] Records of Admiralty, 1718–1726, Book No. 2, fol. 60.

The earlier story of the case is found "At a Court of Admiralty holden at Boston before the Honble John Menzeis Esqr October 13th 1718," in "Rex vs. Sloop Abigail als Les trois Amis," on the hearing of a libel under "the 5th and 6th Articles of the Treaty of Peace and Neutrality in America Concluded between the Crowns of England and France the 16th day of Novemb^r^, 1686" — whereby the subjects of each are prohibited to trade and fish within the dominion of the other.[1]

There is a still earlier case under the same title, — at a Court holden 1 August, 1718, — on an Information under "An Act of Parliam^t^ made in the seventh and eighth years of the Reign of King Wm 3d Intituled An Act for preventing frauds & regulating abuses in the Plantation Trade."[2]

Whether it is the same vessel is not wholly clear; in each case the vessel is a French sloop; there is a similarity in the name of the master, which in the latter case is Martin Détchevré and in the former Martin Chevré; and where the plea put in by Auchmuty and Valentine sets out "That the vessel was leaky, came into the Port in distress had a Survey from the Governour and she was condemned thereupon, and broak up as unserviceable." The cargo indicates a different employment and the alleged fate of the vessel seems to raise a question, but whether it was a refitting or a re-christening, either follows close in date.

Another is a Libel or Information by the Collector of Customs for a forfeiture of sundry articles of merchandise under an earlier English Statute. It has also an interest as showing the status of negroes in the Province at that time.

VI.

Province of the Massa. Bay New England } At a Court of Adm^ty^ holden at Boston before ye Honble Jno Menzeis Esqr Novr 10th 1721.

Rex *vs* 2 Negroes &c } 1721 Nov. 8th John Valentine Esqr Adv^te^ Gen^ll^ Exhibited a Lybell or Information in Behalf of ye King, the Govr of s^d^ Province & John Jekyl Esqr Collector of ye Customs for ye Port of Boston in said Province Whereas in the month of May last past there was Seized @ Barnstable

[1] Records of Admiralty, 1718–1726, Book No. 2, fols. 12–15.

[2] *Ibid.* fols. 5, 6.

& other Places within the same province Two Negroes, Four Cask of Brown Sugar two Casks of Cocoa & two Pateraroes not being entered according to ye direction of ye Statute of ye 14th Car^s^ 2^d^ Wherefore the Same is Forfeited And it is Pray'd on behalfe of His Maj^ty^ &c that ye p^r^misses be decreed & adjucated as Confiscate by ye Honble Court to be divided according to Law, as in Such Cases is Usuall W^ch^ was allowed to be heard on the 10th Curr^t^ & Notifications were Issued out accordingly but nobody appearing upon Proclamation being made —

The Judge Decreed Conformable to ye Libel. and ye Effects were sold by Publick Vendue for £99 „ 11 „ 0 „ as per Acc^t^ thereof on file Vido Case Lechmere vs Wines & Brandy But ye Charges arising there on are very Considerable as may be Seen ꝑ s^d^ Account

Att^r^ JOHN BOYDELL *Reg^r^*[1]

There appears in the Records a receipt signed by Samuel Shute for the Governor's share, for "⅓ of the Neat proceeds Arising upon 2 Negros" and the groceries sold at public vendue, and the receipt of John Jekyll, the Collector, of his two-thirds of the proceeds of the sale.[2]

Another record shows the mode of appointment of the Deputy-Judge of the Vice-Admiralty Court.

VII.

Province of the Massach. Bay New England } At a Court of Admiralty holden at Boston on the 22^d^ day of September 1722. The Deputation appointing Thomas Steel Esqr Deputy Judge of Vice Admiralty for the Province aforesaid was read & is hereafter Recorded

Thomas Steel Esq: Deputation

To all People unto whom these Presents shall come John Menzeis of Leister. in the County of Middlesex Esqr Judge of Admiralty in the Provinces & Colonys of the Massachusetts Bay, New Hampshire, Rhoad Island Providence Plantation & the Naragansett Country or Kings Province in America & the Territories thereon Depending Sendeth Greeting. Whereas His Sacred Majesty George by the Grace of God of Great Brittain France & Ireland King Def^r^ of the Faith &c. By His Royal Commission under

[1] Records of Admiralty, 1718–1726, Book No. 2, fol. 96.

[2] *Ibid.* fol. 83.

the Great Seal of the High Court of Admiralty of England bearing date the Twenty Sixth day of August One Thousand and Seven hundred and fifteen and in the Second Year of His Majestys Reign, Hath Constituted and Ordained me the said John Menzeis His Majestys Commissioner and Judge of the Admiralty in His Majestys Provinces & Colonys before Mentioned. Together with power of Deputing & Substituting in my Stead in the Premisses one or more Deputy or Deputies as I shall think fitt with all Fees &c thereto belonging According to the Custom of the said Court of Admiralty of Old Used & Accustomed Commanding & Strictly enjoyning all and Singular Lords Peers Barrons Governours Knights Mayors Justices of the Peace Sheriffs Stewards Keepers of Goals & Prisons Bayliffs Constables & other Officers & Ministers and all other His Majestys Liege People in and through His Majestys Provinces and Colonys &c & maritime Parts thereof & thereunto adjoyning to be aiding & assisting and Obedient in all things as is becoming upon pain & Perill as shall follow thereon, as by the said Commission relation thereunto being had more fully plainly & particularly Appears. Now know ye That I the said John Menzeis Having Sufficient knowledge of the Ability & good Qualifications of Thomas Steel of Boston Esq[r] any great trust & Confidence in his Integrety to Discharge that Trust. By vertue of the said Commission to me Granted as aforesaid Have Appointed Constituted & Surrogated and Do hereby for and during the time that I shall think fitt Appoint Constitute & Surrogate the said Thomas Steel my Deputy as aforesaid in & through the said Province of the Massachusetts Bay & Maritime Parts of the Same and thereunto adjoyning Together with all and Singular Powers authorities Sallarys Fees Profits advantages & Commodities to the said office within the said Province of Massachusetts Bay & Maritime Parts of the Same in any manner belonging and acording to the Custom of the said Court of Admiralty from of Old Used & Accustomed In Witness whereof I have hereunto set my hand and Seal the Thirty first day of August in the Ninth Year of the Reign of our Sovereign Lord George by the Grace of God of Great Brittain &c King And in the Year of Our Lord One Thousand Seven hundred Twenty & two. J. MENZEIS & a Seal.

21. September 1722. Cap[t] Thomas Steel took and Subscribed the Oaths appointed to be taken Instead of the Oaths of Allegiance & Supremacy and Declaration.

Coram

THOMAS FITCH } of the Councill[1]
JON[a] BELCHER }

[1] Records of Admiralty, 1718–1726, Book No. 2, fol. 109.

The Records also show the appointments and Commissions of various other officers and the mode of procedure in each case. There is the Commission of the Marshal, Arthur Savage, recorded at length at the Court, 13 October, 1724.[1] It is given in the name of his Majesty at London 1 July 1724, in the tenth year of George I., under "Sigillum Magnum Supremæ Curiæ Admiralitatis Nostræ Angliæ." It is in sonorous though somewhat difficult Latin, wherein the combination of the classic and the vernacular relieves the monotony and gives a certain jerky animation of its own.

Not long after follows the Commission of the Deputy Marshal, Daniel Goffe, dated 6 November, 1724, and read at the Court 13 November; it is under the hand and seal of the Marshal; but deriving his authority from an humbler and provincial source, it finds the simple English tongue sufficient to invest him with all the duties and powers of his subordinate office.

There is also the Deputation of Arthur Savage as Deputy Register, under the hand and seal of John Boydell, Register, presented at a Court of Vice-Admiralty before the Honorable John Menzeis, Judge of said Court, 30 October, 1722.[2]

At a Court held 1 November, 1723, —

Archibald Cumings, Esq., produces a Commission appointing him Agent to Receive the Rights and Perquisites of Admiralty, which was read: Thereafter the Judge tendered the Oath *De fideli* as appears by the Minute Book, and ordered the Commission with the Instructions Annexed to be Recorded, which are as follows viz[t]

The Commission is in Latin from his Majesty, with four folio pages of instructions annexed in English.[3]

These records show the formalities observed, and also prove the existence of Minute Books, now no longer extant, corresponding to the Dockets of the present day.

The extracts which have been given have been taken from the earliest book of Admiralty records now in the Supreme Judicial Court. The later books of record contain matter of like character. These volumes are full of interest and cover the field of Admiralty proceedings. They are unique in character; they have a

[1] Records of Admiralty, 1718-1726, Book No. 2, fol. 182.
[2] *Ibid.* fol. 116. [3] *Ibid.* fol. 159.

tinge of the formalities of the Civil Law. There is an elaboration, a minuteness, a formality, wholly unlike the concise and terse records of the Common Law Courts, while the fulness of detail turns the dry record of legal proceedings into an entertaining story of human action and interest.

To treat with any approach to completeness or thoroughness the history of Admiralty Jurisdiction in the earlier days of Massachusetts would require much research and careful study and a comprehensive survey of the whole field; for the subject is not wholly clear in the earlier years, the time of the Colony, and somewhat obscure and more or less complicated in the times of the Province. It would need a thorough and minute examination of all the Massachusetts Archives, of the records of the Admiralty Court, of official records and documents, contemporaneous writings, the accounts of the newspapers of the day, after they began to be issued and to supply so much material for history, and all kindred sources of original and authentic information with a discriminating review of the many histories; — also a study of the relations of the Dependency to the Mother Country, and likewise of the political conditions and relations subsisting at the different times, and all sorts of questions springing out of them; as well as of the facts and causes of the legislation affecting Admiralty Jurisdiction and maritime matters in general.

From the original and the trustworthy material thus secured might be worked out an authentic and satisfactory history of Admiralty Jurisdiction in the Colony and in the Province of the Massachusetts Bay.

This paper is merely what its title purports, — a few Notes.[1]

[1] The exercise of Admiralty Jurisdiction by the Court of Assistants has been touched upon in this paper, and cases recorded in Volume i. mentioned. Many original papers in such cases are among the Suffolk Court Files: nos. 1,279; 1,417; 1,425; 1,514; 1,587; 1,672; 1,819; 1,887; 1,909; 1,932; 1,934; 1,935; 1,939; 1,940: 1,941; 1,942; 1,943; 2,031; 2,055; 28,540 (without date); 2,087; 2,102; 2,152; 2,398. There are some later files, in the Superiour Court of Judicature, before 1700: nos. 3,123; 4,188; 98,533; 3,564; 26,145; 26,283; 26,572; and others also incidentally touching on such matters: nos. 26,660; 26,661; 28,225; 28,409; 28,437; 28,550; 28,808; 28,831. There are also numerous files relating to Piracy previous to or in 1700, except such as are undated: nos. 514; 817; 826; 1,238; 1,287; 1,288; 1,390; 2,251; 2,516; 2,539; 2,520; 2,537; 2,538; 2,540; 3,010; 3,033; 3,765; 4,576; 4,682; 4,860. These are

Mr. HENRY H. EDES communicated some memoranda concerning Joseph Boucher de Niverville, the commander of the French and Indians in their attack in 1747 on Charlestown, New Hampshire, and his great estates in Canada, which had recently been received from Mr. Benjamin Sulte of Ottawa. Mr. Sulte is not only the highest authority upon all matters of Canadian history and genealogy, but on more than one occasion has evinced great interest in this Society and its work.[1]

The Hon. JOHN HAY of Washington, D. C., was elected an Honorary Member, the Hon. WILLIAM BABCOCK WEEDEN of Providence a Corresponding Member, and Mr. WINTHROP HOWLAND WADE of Dedham a Resident Member.

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undated: nos. 24,464; 25,973; 26,283; 26,627; 27,230; 27,989; 28,808; 10,923 (1716); 162,286 (fragment); vol. mlviii. no. 99 (fragment). There are besides these, the noted cases of John Baptist, Jean Baptiste: nos. 19,554 (2 papers); 19,755 (12 papers); 28,868; 26,283; and of Van Vorst: nos. 11,945 (8 papers); 26,283 (7 papers), cited above.

These citations, of course, taken, with a few casual exceptions, from the Calendar Index, 1629 to 1700, are not intended to be exhaustive.

[1] See the Publications of this Society, iii. 220, vi. 259-265.

ANNUAL MEETING, NOVEMBER, 1903.

THE ANNUAL MEETING of the Society was held at No. 28 State Street, Boston, on Saturday, 21 November, 1903, at twelve o'clock, and was immediately adjourned to meet at the University Club, No. 270 Beacon Street, on Monday, 23 November, at six o'clock in the afternoon. At the adjourned Meeting, the President, GEORGE LYMAN KITTREDGE, LL.D., occupied the chair.

The Records of the last Stated Meeting were read and approved.

The CORRESPONDING SECRETARY reported that since the last meeting letters had been received from the Hon. JOHN HAY of Washington accepting Honorary Membership, from the Hon. WILLIAM BABCOCK WEEDEN of Providence accepting Corresponding Membership, and from Mr. WINTHROP HOWLAND WADE of Dedham accepting Resident Membership.

Mr. HAY's letter is as follows:

DEPARTMENT OF STATE, WASHINGTON.
MAY 19, 1903.

DEAR SIR:

I have received your letter of the 23rd of April, in which you inform me that I have been elected an Honorary Member of the Colonial Society of Massachusetts. I have also received the copy of the By-laws and of the Transactions, which you were so kind as to send me.

I beg you will make known to the Society the sentiments of grateful appreciation with which I accept the distinguished honor which they have conferred upon me.

I am, Sir,
Very sincerely yours,
JOHN HAY.

JOHN NOBLE, Esquire,
CORRESPONDING SECRETARY, Court House,
BOSTON, MASSACHUSETTS.

The Report of the Council was presented and read by the Rev. EDWARD HALE.

REPORT OF THE COUNCIL.

During the year now closing five Stated Meetings have been held, as usual, in addition to the Annual Meeting and dinner in November. At these meetings, many papers and documents of value and interest were presented.

A volume of Publications, devoted to the Transactions of the Society, and a serial part of another volume, have been distributed to the members. The funds available for publication have been increased through two gifts, — one of One hundred dollars from Mr. Horace Davis of San Francisco, a Corresponding Member, the other of Ten thousand dollars from the executors of the will of the late Robert Charles Billings. This second gift was secured to the Society through the interest in its work of Mr. Thomas Minns, a Resident Member of the Society and at the time of the gift one of the two surviving executors of the will of Mr. Billings. By the conditions of the gift the entire amount is to be kept as a permanent fund of ten thousand dollars, to be called the Robert Charles Billings Fund, the income only to be used for publications.

We have lost by death two Resident Members,

WILLIAM CROSS WILLIAMSON, SAMUEL WELLS;

and one Corresponding Member,

JOSEPH WILLIAMSON.

A professional man of varied business and social interests, WILLIAM CROSS WILLIAMSON was nevertheless able to lead the quiet life he most enjoyed. Devoted to the study of the classics generally, he was known as one of the foremost students of Horace in this country. An occasional writer from his college days on, in both prose and verse, his last poem was the sonnet to his college classmate and chum, James Bradley Thayer, which he read at the memorial meeting of the Society held shortly after Mr. Thayer's death; while his last prose work was the memoir of his elder brother, Joseph Williamson, published in the October number of the New England Historical and Genealogical Register.

A leading member of the Boston Bar, SAMUEL WELLS'S ability and judgment not only brought him success and distinction in his profession but made him a valued counsellor in the many business and political organizations with which he was connected. Active for many years in philanthropic work and in reform movements, he took great pleasure also in scientific work, obtaining valuable results from his study of the use of the microscope and especially from its employment in photography.

JOSEPH WILLIAMSON was by vocation a lawyer, by avocation a biographer and historian. The charming memoir by Mr. William C. Williamson presents a most winning portrait of a man who, a lover of his town and of all the country around it, for fifty years entered into all its everyday, practical aspects, and at the same time was giving testimony to a deeper interest in community and State which found expression in frequent articles and addresses on matters of historical importance, culminating in his *magnum opus*, the Bibliography of the State of Maine.

There have been added to our Roll during the year five Resident Members,

EZRA RIPLEY THAYER, WINTHROP MURRAY CRANE,
JOHN NOBLE, Jr., THORNTON KIRKLAND LOTHROP,
WINTHROP HOWLAND WADE;

three Corresponding Members,

GEORGE ARTHUR PLIMPTON, WILLIAM BABCOCK WEEDEN,
WILLISTON WALKER;

and one Honorary Member,

JOHN HAY.

It seems fitting to mention the recent death of Mr. John Wilson of the University Press, and to call to mind the indebtedness of the Society to his care and workmanship. His father, John Wilson, was born in Glasgow, Scotland, at the age of twenty-one was foreman of a printing-office in Edinburgh, and later took charge of an office at Belfast, Ireland. Here he edited the works of Burns, for which he wrote a memoir, and also prepared the first edition of his treatise on punctuation. At the end of eight years, he took charge of the proof-reading of the Manchester Guardian, and about 1847 he came to Boston, bringing with him letters of introduction to the

clergy here from Dr. James Martineau. John Wilson the younger was born at Belfast 28 August, 1826. While at Manchester he learned Latin, Greek, and French in the school of the Rev. John R. Beard, a Unitarian minister at Saltash. Leaving school at fourteen or fifteen, he was with his father as an apprentice for six years. For a year after reaching Boston, the father and the son, as proof-reader and as compositor, were with S. N. Dickinson and Company. They then started business at 21 School Street, Boston, about 1865 removed to Cambridge, and about 1875 bought the University Press. It was Mr. Wilson's sympathetic interest as well as his mastery of his art which set for the Publications of our Society their high standard of typographical beauty and fitness.

It only remains to say that by the continued courtesy of the American Unitarian Association the Stated Meetings of the Society have been held for another year in the building of the Association.

The Reports of the Treasurer and of the Auditing Committee were then submitted, as follows:

REPORT OF THE TREASURER.

In compliance with the requirements of the By-laws, the Treasurer submits his Annual Report for the year ending 19 November, 1903.

CASH ACCOUNT.

RECEIPTS.

Balance, 17 November, 1902		$639.67
Admission Fees	$50.00	
Annual Assessments	710.00	
Interest	1,659.61	
Sales of the Society's Publications	23.10	
Miscellaneous items	9.99	
Withdrawn from Charlestown Five Cents Savings Bank	150.00	
Mortgages, assigned or discharged	11,300.00	
Horace Davis's gift to the Publication Fund	100.00	
Executors of the will of Robert Charles Billings, to constitute a permanent fund	10,000.00	24,002.70
		$24,642.37

EXPENDITURES AND INVESTMENTS.

University Press, printing	$1,003.71	
A. W. Elson and Company, photogravure plates and plate printing	73.25	
Clerk hire	70.85	
Eva G. Moore, indexing	50.00	
Merchants Parcel and Express Company	28.73	
Hill, Smith and Company, stationery	7.50	
Library Bureau, stationery	3.53	
William H. Hart, auditing	5.00	
Miscellaneous incidentals	271.88	
Deposited in Charlestown Five Cents Savings Bank	150.53	
Mortgages on improved real estate in Boston	21,700.00	
Interest in adjustment	214.27	$23,579.25
Balance on deposit in State Street Trust Company of Boston, 19 November, 1903		1,063.12
		$24,642.37

The Funds of the Society are invested as follows:

$35,700.00	in First Mortgages, payable in gold coin, on improved property in Boston and Cambridge.
25.64	deposited in the Charlestown Five Cents Savings Bank.
$35,725.64	

TRIAL BALANCE.

DEBITS.

Cash		$1,063.12
Mortgages	$35,700.00	
Charlestown Five Cents Savings Bank	25.64	35,725.64
		$36,788.76

CREDITS.

Income		$1,063.12
Publication Fund	$1,100.00	
General Fund	4,625.64	
Gould Memorial Fund	10,000.00	
Edward Wheelwright Fund	10,000.00	
Robert Charles Billings Fund	10,000.00	35,725.64
		$36,788.76

HENRY H. EDES,
Treasurer.

BOSTON, 19 November, 1903.

REPORT OF THE AUDITING COMMITTEE.

The undersigned, a Committee appointed to examine the accounts of the Treasurer of The Colonial Society of Massachusetts for the year ending 19 November, 1903, have attended to that duty and report that they find them correctly kept and properly vouched, and that proper evidence of the investments and of the balance of cash on hand has been shown to us.

EZRA R. THAYER,
JOHN G. PALFREY,
Committee.

BOSTON, 20 November, 1903.

These Reports were accepted and referred to the Committee of Publication.

Mr. THOMAS MINNS, on behalf of the Committee to nominate officers for the ensuing year, reported the following list of candidates; and, a ballot being taken, these gentlemen were unanimously elected:

PRESIDENT.
GEORGE LYMAN KITTREDGE.

VICE-PRESIDENTS.
WILLIAM WATSON GOODWIN.
MARCUS PERRIN KNOWLTON.

RECORDING SECRETARY.
HENRY WINCHESTER CUNNINGHAM.

CORRESPONDING SECRETARY.
JOHN NOBLE.

TREASURER.
HENRY HERBERT EDES.

REGISTRAR.
FREDERICK LEWIS GAY.

MEMBER OF THE COUNCIL FOR THREE YEARS.
REV. EDWARD HENRY HALL.

Mr. JOHN NOBLE made the following communication:

Two original documents of interest and importance, one connected with the first and the other with the second Presidency of Harvard College, have been given to the public for the first time through this Society,[1] Another is presented to-night which has to do with the steps taken to secure a third incumbent of the office, upon the death of President Chauncy. Its date is within a few weeks of the occurrence of the vacancy[2] and not long before the accession of President Hoar, who followed with a somewhat stormy term of office.

The document is the formal propounding to the Governor and Council and to the Overseers of the College of a candidate, by Richard Saltonstall,[3] one of the earliest and most liberal bene-

[1] Publications, iii. 415–430, v. 322–339.

[2] Chauncy died 19 February, 1671–72.

[3] It is not necessary to give a full account of a man so well known as Richard Saltonstall. He was the eldest son of Sir Richard, was born in 1610, and was educated but not graduated at Emmanuel College, Cambridge, the Alma Mater of so many of the founders of New England. He came over with his father in 1630, settled at Watertown, then at Ipswich after his return from a visit to England, and held various important positions here. He married Muriel Gurdon, daughter of Brampton Gurdon, and died at Hulme, Lancashire, 29 April, 1694. (See L. Saltonstall, Ancestry and Descendants of Sir Richard Saltonstall, pp. 12, 86–97.)

An error of long standing may properly be corrected. In 1862 Savage wrote:

For many yrs. he was not chos. Assist. but in 1664 in hope of his com. again, the honor was renew. and it was erron. assert. that he had been aft. in the country, bec. in 1672 he gave £ 50. to relief of Goffe and Whalley, the regicides (Genealogical Dictionary, iv. 8).

To the documents printed in the text, which prove that Saltonstall was in this country in 1672, two more may be added, — one showing that he was here in 1671, and the other giving an approximate date for his departure for England in 1672. Under dates of 19 and 26 May, 1671, the Rev. William Adams wrote:

I came to Cambr. attending on ye worshipful Richard Saltonstall Esqr. . . . I wrote out 2 letters for ye worshipful Richard Saltonstall Esqr. to be sent to ye first and third churches of Boston endeavoring to procure a reconciliation between them. Deus Hoc Cœptum secundet (4 Massachusetts Historical Collections, i. 13).

In a letter dated Charlestown, 1 June, 1672, Edward Collins, writing to Goffe and Whalley, said:

These are to lett you know, that God hath moued the heart of that worthy & gracious gentleman, M^r^. Ritchard Saltonstall, who cals himself your brother, who is now gon for England, whom the Lord prosper in his voiage: hath left behind him for your use, the sum of fivty poounds (4 Massachusetts Historical Collections, viii. 134, 135).

Finally, there is in the Massachusetts Archives (lviii. 72) a document which shows that Saltonstall was here on 21 August, 1671.

factors of the College and one of its wisest and staunchest friends. He leaves the candidate unnamed, as one to be at once recognized by his qualifications and fitness. Neither of the three historians of the College — Peirce, Quincy, or Eliot — makes any mention of the occurrence or any allusion to the proposed successor of the revered Chauncy. The question as to the identity of Saltonstall's candidate is somewhat puzzling. As long ago as 1861 James Savage, speaking of the Rev. John Knowles, said:

> On the d. of Presid. Chauncy, 1672, he was propos. to succeed him as head of Harv. Coll. tho. in Mather's Hist. we should not look to discov. any thing like it, for that writer is very sparing of his facts in the chap. dev. to his life.[1]

It is singular that Savage should have given no authority for so interesting a statement. It is possible, however, that he had in mind a passage in the Journal of the Rev. William Adams, who graduated at Harvard College in 1671. Under date of 25 March, 1672, Adams writes:

> I writt a letter for ye Governor and Mr. Saltonstall draw̄ up by Mr. Cobbet to be sent to Mr. Knowles for him to be Pres. of our Harvard Coll. w^c^ I [A word or two in short-hand].[2]

There can, therefore, be no reasonable doubt that the Presidency was offered to Knowles; but does it necessarily follow that Knowles was Saltonstall's unnamed candidate?

John Knowles was born in Lincolnshire, and in 1623 graduated at Magdalene College, Cambridge, where he was the chamber-fellow of Richard Vines, the distinguished Puritan divine. Coming to this country in 1638 or 1639, he was ordained in 1640 and settled at Watertown. In 1642 and 1643 he was in Virginia, in 1650 was made a freeman here, and about 1651 returned to England, where he spent the remainder of a long life, dying in 1684.[3]

[1] Genealogical Dictionary, iii. 41, 42.

[2] 4 Massachusetts Historical Collections, i. 16. Adams refers to the Rev. Thomas Cobbet of Lynn and Ipswich.

[3] For notices of Knowles, see Mather, Magnalia (1853), i. 589–591; Calamy, Nonconformist's Memorial (1775), ii. 349–351; Bond, Genealogies and History of Watertown, pp. 329, 1047; C. Francis, History of Watertown, pp. 28–31; Sprague, Annals of the American Pulpit, i. 118–120; Winthrop, History of New England (1853), ii. 22, 94, 116; Johnson, Wonder-working Providence (1867), pp. xxviii, lxxxv, 137, 178, 227; 1 Proceedings Massachusetts Historical Society,

If we compare the known facts about Knowles with the facts about Saltonstall's candidate, as stated by Saltonstall, three discrepancies appear. First, as to age. Saltonstall says: "Hee is aboue twenty years younger, than Caleb, when Caleb spake to Joshua in ye 14: of Joshua." Caleb's words are: "I am this day four score and five years old" (Joshua, XIV. 10). The candidate, then, was less than sixty-five. In a letter written to Increase Mather 6 August, 1677, the Rev. William Hooke says: "Mr Knowls is now about his 76th yeer."[1] This statement, coupled with the fact that Knowles took his A.B. degree in 1623, shows that in 1672 Knowles must have been about seventy. Secondly, as to Fellowship. Saltonstall says: "He was chosen a Fellow of his Colledge." Knowles, as already stated, graduated at Magdalene College, but he was a Fellow of St. Catharine's College.[2] Thirdly, Saltonstall says: "This nameless person hath lived in New England, but he never had ye publique exercize of his proper [ ] while he lived heer." Under date of 9 December, 1640, Winthrop writes:

> The church at Watertown ordained Mr. Knolles, a godly man and a prime scholar, pastor, and so they had now two pastors and no teacher, differing from the practice of the other churches, as also they did in their privacy, not giving notice thereof to the neighboring churches, nor to the magistrates, as the common practice was.[3]

At the beginning, Knowles was the associate of the Rev. George Phillips; on the death of Phillips in 1644, Knowles became the sole pastor; and in 1647, the Rev. John Sherman was associated with Knowles as pastor. Knowles was called pastor by Winthrop, in the Watertown Records,[4] and elsewhere; and it is difficult to see exactly how Saltonstall's statement can apply to him. On the

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xvii. 352. The date of Knowles's death is variously given as April tenth or November tenth, 1684.

[1] 4 Massachusetts Historical Collections, viii. 584.

[2] Bishop Browne of Bristol says that Knowles "was elected a Fellow of St. Catharine's 1627" (St. Catharine's College, p. 119); and E. K. Purnell states that Knowles "had become Fellow of Catharine Hall" (Magdalene College, p. 98).

[3] History of New England (1853), ii. 21, 22.

[4] Watertown Records, i. 9, 16. The last allusion to Knowles is under date of 8 October, 1651:

> Ordered y^t^ M^r^ knowles should haue twenty pounds for his q^tn^ imployment (i. 23).

Presumably, therefore, Knowles did not return to England before late in 1651.

other hand, a word or two is omitted in the description, and perhaps Saltonstall intended to refer to his candidate as a teacher. The description in its general character fits Knowles quite nearly, and very likely the apparent discrepancies are merely due to a looseness of statement that might not unreasonably be expected under the circumstances.

The document is as follows:

The Description of a Worthy person humbly propounded (wth due subjection to better Judgments) for a President of ye Colledge in Cambridge: and propounded to the Right Worshipfull and Reverend Overseers of the Colledge; wch person for the present shall be nameless, yet wee doubt not but that his true and proper name, will bee known unto your Worshipps by his Description to be subjoyned, Whereunto, that ye Coast may be clier of some slight objections (not worthy in this case of a more express and particuler mention) wee shall be necessitated to insert and premize these following Propositions.

First, Paul the aged, or Paul at ye age of 60, or 70 years, is not onely as good, but in some respects much b[ette]r; then Paul not so old by tenn or twenty years. Aged persons emmently righteous, by vertue of that promise Psalme ye 92: 14: shall certainly yeild, more, better, sweeter, and fairer fruit, then they did, or could haue done, when they were not so old by 10: or twenty years. Who would not invite Paul ye aged, in such a case as this of ours is, though wee could not expect his life and continuance with us, aboue 6: or 7 years. If wee were to take a lease of lives, wee would choose rather to take a lease for ye life of this nameless person, than for ye life of Dr Owen.

2^{ly} The Scripture giveth great and weighty Caution concerning youth or younger men, wch may serue for our admonition in ye present case. (Not a Novice etc:)

[3] ^{ly} No one man in England (old or New) hath sufficiency enough for [t]he two places, that is to say, the place of a Pastour, or Teacher to a [C]hurch; and ye place of a President to such a growing Colledge.

4^{ly} To rend a Pastor or Teacher fitt for Collegiate worke from any Church, where they are; for ye supply of this place of President, is a practice most irregular, ye Consequences whereof haue been sad to severall Churches in this Countrey.

5^{ly} Every person hath his proper gift, and it is ye wisdome of any people to apply proper gifts, to their adequate and most proper objects, Ames, and Twiss considered as Schoolmen, wth all their accademicall accomplishments, both of Arts and Tongues, are a pair of English Worthies most Justly honoured wth a name and place among ye First

three. (they were mighty men of valor for ye worke, of ye service, of the house of God. But [conside]red as Preachers (in wch respect they were both alike) they are [ju]dged to be far short of their Inferiors.

These things being premized, wee shall proceed unto the Character or Description of ye aforesaid nameless person.

As to his years, he may be a paralell to Paul ye aged. As to his naturall Care for ye State of this Countrey in all our best and worst times, he may be a paralell to Timothy (that nonesuch). By his pregnant parts, and his Improovment thereof, in ye Arts, and learned Languages, when he was a Senior Sophister in ye University of Camebridge, he was thought fitt (as ye flower of his year) to be Moderator of ye Sophisters Schools where his worke was every day, each other weeke, in Terme time to make an Oration to ye Sophisters, and other Auditors of all sorts, As also to moderate all Disputations, upon logicall and philosophicall questions, within ye Compass of his week, in wch place, he gaue such proof of his ability, as that thereafter, he was chosen a Fellow of his Colledge, and after that (even all ye time of his residence in Camebridge) being a Tutor, he was honoured not onely wth more Pupils, but w^h^ Pupills more considerable than any of his senior fellows. Hee is Judged by those to whome he is most and best known to have a singular gift for training up of youth in Univerty Learning: Witness the many learned pupills, wch Call him Tutor, (whereof one is a worthy eminent Elder in New England: (This nameless person, hath lived in New England, but he never had ye publique exercise of his proper [ ] while he lived heer). There are also many witnesses in this Countrey, that he hath a singular gift, for prudence, gravity, composednes of Spirit, moderation, and yet zeal in governing youth, wth grace to walk before them as a man of God. And because the worke of his place (as President; if ye Lord should so dispose) is Sanctuary worke: wee are willing that what wee say concerning him, shall be either tryed by ye Touchstone; or weighed (wth a grain or two of allowance for his age meerly) in the ballance of the Sanctuary. It were a thousand pitties that such a Prophet should be without honour in his own Countrey, and among his own Acquaintance.

Wee shall offer one word more about his Age wch is ye great objection. Hee is aboue twenty years younger, than Caleb, when Caleb spake to Joshua in ye 14: of Joshua: and by ye good hand of God upon him in respect of bodily health, strength, naturall Capacities, and present fitness, for ye worke and service of a President, hee (being a man of faith as Caleb was) may say as Caleb did Joshua 14: 11: I am as strong this day, as I was many years agoe; as my strength was then so is it now, either for ye Arts, or for ye Tongues, or for training up of Pupills or for

ye government of a Colledge (wth all the speciall Requisites belonging thereunto.) And as wee said before, Paul ye aged was as good a man and better, then Paul not so old by 10: or 20 years.

[*Endorsed*]

This motion & Discription was p^re^sented by Rich. Saltonstall Esqr. to ye Gou^r^ & Council & ou^r^seers of ye Colledge mett in Boston 7 m^r^ch 71 & Read: then & is on file for further Seasonable Consideration. 5th m^r^ch 71–2.[1]

Those were premises and conclusion two hundred years ago. Extend those premises as we may, widen the College into the great University and the narrow local field into the whole country, broaden the qualifications for office there given into others known and recognized everywhere, — and we can still hold the conclusion sound.

To-night we join all friends of Harvard, — of education everywhere, of good government in University or Nation, of progress and advance in the aims and achievements of all sorts and conditions of men, — in hoping that the present President of Harvard may round out a full fifty years in the Presidency, and may add as many more as he is willing to give.

Mr. HENRY H. EDES exhibited an original deed, given 1 January, 1684–85, by John Alden to his youngest son Captain Jonathan Alden, of certain real estate in Duxbury. The deed was in the nature of a last will, and is as follows:

To all people to whom these presents shall come John Allden sen: of ye Towne of Duxbury in ye Jurisdiction of New-plymouth in N:E esquire sendeth greeting. &c.

Know yee that I: John Allden for and in consideration of that reall love and parentall affection which I beare to my beloved and dutifull son Jonathan Allden Have of my oune meer motion and free will being ye result of serious deliberation promised given granted aliened enfeoffed and confirmed and by these presents do fully absolutely and clearly promise give grant alien enfeoffe and confirme from me ye s^d^ John Allden my heires exequtores administratores and assignes From ye daye of my Death ensuing unto him ye s^d^ Jonathan Allden his heires exe-

[1] Suffolk Court Files, no. 1093. There is apparently nothing either in the Massachusetts Archives or in the Harvard College Records that throws light on this document.

qutores administratores and assignes for ever All my upland in Duxbury aforesaid as it was Layd out by Governour Bradford mr Edward Winslow Joshua pratt and Edward Banges. See old booke of grantes and boundes of landes Anno i637 folio i37 the boundes whereof are as follows: viz ffrom an old pine tree by ye meadow side which meadow afterward was allotted to me ye s^d^ John Alden sen: The Breadth of s^d^ land buttes upon and ranges along Blew fish River to a burnt walnutt stump And from thence for ye length to a wall-nut tree ranging from the aboves^d^ stump west nor-west which was sometime after run by Joshua Pratte and philip Delano sen: unto a white oake tree standing a litle within ye boundes of philip Delanoes land there being a stump or roots of that tree still remaining. And from thence for the breadth at ye head to Greenes harbour old path. And on ye southerly side of ye land bounded partly with my owne meadows and with ye land of Experience michell towards ye upper end. With all my meadows lying between the s^d^ upland and Blew fish river afores^d^ togather with all and every other parcell of land lying within ye towneship of Duxbury afores^d^ granted to me John Allden senior either by his ma:^tie^ Court held in plymouth aforesaid or by the s^d^ towne of Duxbury. with all and singular the priviledges and appurtenances to all and every part or parcell of the above s^d^ land viz upland and meadow be it more or lesse belonging: togather with all my right title and Interest therein and ye housing thereon. TO HAVE and to hold From ye Daye of my Death For which God prepare me All and singular ye above s^d^ parcells of upland and Meadow and housing be they more or lesse with all my right and title in ye singular and universall priviledges and im̄unities to ye same in any wise belonging or yet accrewing unto ye s^d^ Jonathan Allden his heires and assignes for ever from the time above prefixed to his and their proper use and behoofe to be holden according to ye tenure of his ma:^ties^ mannor of east Greenwich in ye County of Kent in ye realme of england in Free and common soccage and not in capite nor by K^ts^ service. the rents and services thereout due and of right accustomed free and cleare and clearly acquitted off and from all other and former promises guiftes grantes bargaines sales leases mortgadges joyntures Dowries extents uses entailes And of and from all and singular other title trouble charges demands and incumbrances w^t^soever had made com̄itted omitted suffered or don by me the s^d^ John Allden or by my heires or assignes or any other person or persones w^t^soever Lawfully clayming from by or under me or y^m^ or any of them. Warranting the title And Guift hereof against all persons whatsoever in by through or under me ye s^d^ John Allden or by my right or title lawfully clayming any right title or interest of or in ye premisses or in any part or parcell

thereof w'soever. And that the s^{d} Jonathan Allden his heires and assignes and everie of y^{m} shall and may by virtue of these presents from time to time and at all times for ever hereafter lawfully peaceably and quietly have hold occupie possess and enjoye all and singular ye before granted premisses with their and everie of their rightes members and appurtenances and have receive and take all ye rents issues and profits thereof to his and their oune proper use and behoofe for ever without any lawfull lett suit trouble deniall interruption ejection or disturbance of me the s^{d} John Allden or my heires or assignes or any other person or persons w'soever Lawfully clayming from by or under me or y^{m} or any of them or by their meanes and consent title interest privitie or procurement. Also I the s^{d} John Alden doe further covenant and promise with and to the s^{d} Jonathan Allden that it shall and may be lawfull to and for the s^{d} Jonathan Allden either by himselfe or his attorney to record and inroll or cause to be recorded and inrolled ye title and tenure of these presents in his ma:^{ties} Court in Newplymouth afores^{d} according to ye usual order and maner of recording and inrolling deeds and evidences in such case, made and provided for And for ye true performance of these premisses according to ye time above mentioned I the s^{d} John Allden binde my selfe my heires my exequtores and administratores firmly by these presents. In witness whereof I have hereunto set my hand and seale this first daye of January in ye year of our lord god one thousand six hundred eighty and four. Anno℞ Caroli secundi: Mag: Britaniæ, Galiæ et Hyberniæ regis: 36.

Signed sealed and delivered,
in presence of us Witnesses
Ichabod Wiswalle[1]
Dauid Allden[2]

The words (And ye housing thereon) between ye lines 25 and 26 and ye words (And housing) between 27 and 28 were interlined before ye sealing and deliverie hereof.

JOHN ALDEN (Seal)

The Deed above mentioned was ffrely Acknowledg to be the ffree Act and Deed of John Alden Senior above Written So Acknowledg the second of January 1684 before me WILLIAM BRADFORD[3]
Deputy Governour

[1] The Rev. Ichabod Wiswall, in whose hand the deed is written, studied at Harvard College between 1651 and 1654 but did not graduate, and was the

[2] David Alden was a son of John Alden. See Winsor, History of Duxbury, p. 214; Savage, Genealogical Dictionary, i. 23.

[3] William Bradford was the son of Gov. William Bradford. See Winsor, History of Duxbury, pp. 230, 231; Savage, Genealogical Dictionary, i. 232.

[*Endorsed*]

Col Jonathan Alden his deed

This Deed is recorded in y^e^
New Booke folio 71 : 72
p^r^ SAM^L^ : SPRAGUE *recorder*
Entrusted by Maj. Judah Alden
March 1832
B. KENT
169
Presented to Edwd T. Barker[1]
by Miss M. A. Alden Duxbury
Sept. 27th 1871

3 years Interest	pd	2 =	8 =
more Interest		0 =	8 =
more Cleard		1 =	18 = 4
D more - -		1 =	6 = 0
D more - - -		3 =	0 = 0
more Cleard		1 =	10 = 0
D more - - -		3 =	8 = 0
more Cleard		1 =	16 = 6
more - - -		2 =	0 = 0
26 Behind -		0 =	8 =
28 Behind - -		0 =	8 = 4
More - - -		1 =	12 = 3
	£	2 =	8 = 7

	s	d
wayd lords cart ton hay	2 =	3

Mr. AUGUSTUS PEABODY LORING of Beverly was elected a Resident Member.

After the Annual Meeting had been dissolved, dinner was served. The guests of the Society were CHARLES WILLIAM ELIOT, WILLIAM BABCOCK WEEDEN, AUGUSTUS PEABODY LORING, and EDWARD FIELD. President KITTREDGE presided.

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minister of Duxbury from 1676 to his death on 23 July, 1700. See Winsor, History of Duxbury, pp. 180–184; Sibley, Harvard Graduates, i. 16 *note*, 560, 561; Savage, Genealogical Dictionary, iv. 615; Palfrey, History of New England, iii. 424, 554, iv. 87, 88.

[1] The original deed is still in the possession of Mr. Barker, a descendant of John Alden. Mr. Barker owns a portion of the land, lying in Duxbury and Kingston.

DECEMBER MEETING, 1903.

A STATED MEETING of the Society was held at No. 25 Beacon Street, Boston, on Thursday, 23 December, 1903, at three o'clock in the afternoon, the President, GEORGE LYMAN KITTREDGE, LL.D., in the chair.

The Records of the Annual Meeting in November were read and approved.

The CORRESPONDING SECRETARY reported that since the last meeting a letter had been received from Mr. AUGUSTUS PEABODY LORING of Beverly accepting Resident Membership.

The Rev. HENRY A. PARKER communicated an unpublished letter written at Assington, Suffolk, England, on 4 April, 1636, by Muriel (Sedley) Gurdon, the wife of Brampton Gurdon, to the wife of Governor John Winthrop. The letter is as follows:

My most dear and much respected frinde I rejoyc to hear of your recovery, for my daughter[1] had wrote to me of y^r^ weaknes' wch made your lettar the more wellcom to me; the Lord continew y^r^ helth to the comfort of your good husband, and the furthering of that great worke wch the lord hath called y^o^ unto. You say y^o^ shall not nede to informe of any thing consarning the countrey: having so many othar friends: I may say to you, so wright all the rest, that wee hear but very littell, but what we hear from thos which come ovar from y^o^, and thay for the most parte diffar so much ayther in ther spech or in judgment, though we thinke well of them: yet thear is littell satisfacttion to be had from what they speake: but you have so many come to y^o^ from us I am sure you shall be informed of such prosedings as will greve any christien hart to hear: that in so short a time so many of Gods faithfull ministers should be silinced: and that which is wors; many that semed to be zeleous doe yeld obedence to the inventions of men:[2] it will be a hard matar to

[1] This was Muriel (Gurdon) Saltonstall, the wife of Richard Saltonstall.

[2] Perhaps there is here a covert allusion to Charles Chauncy, who, in February of the year in which the letter was written, signed a promise of submis-

chous the good and lav the evill: I did thinke befor it had come to this haith that we should have been providing to come to you — but now I see that my husband in regard of his many years [1] rathar thinke he hath a calling to suffar hear then to remove himselfe: the Lord teach us what his will is and giv us harts to submite truly unto it and his holy Spirit to carry us throwe I give m^r winthrup and y^or selfe many thanks for y^r care of my sonne Edmound [2] I did hope he would have bin of mor euse to have ben imployed by y^o then it seme he was, the weaknes in his hands grew upon him not long befor he went from us, we ded hope the Sea would have been a good meanes to helpe it: but I rathar fear he is worse: my husband is desirous to give satisfaction for the charge he hath put you unto & with many thanks for y^or love and care: thus desirous to have my best respect tendred to m^r winthrup and y^or selfe I becech the Lord to keepe us all stedfast to the ende —

y^or Asured frind — Asingtone this
MERIELL GURDON — 4 of Aprell

[*Addressed*]

To my much respected worthy freind mrs Winthropp — the eldere at Boston give this

Mr. ALBERT MATTHEWS read the following paper on —

THE WORD PALATINE IN AMERICA.

Several years ago, in a letter to the Nation, Dr. Murray said it was not to the credit of American lexicographers that they left to their English brethren so much work that ought to have been done by themselves. It must be confessed that the reproof has too often been deserved, and an excellent illustration is afforded by the word Palatine. No writer on the subject of Americanisms seems to have noted it, the Century and the Standard are the only two dictionaries which even refer to American usage, the account in the Century is

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sion and conformity, as given (not with verbal accuracy) by Sprague in his Annals of the American Pulpit, i. 110-114.

[1] Brampton Gurdon was then about seventy, while his wife was fifty-two.

[2] Of Edmund Gurdon, who was born in 1616, little is known, though apparently he did not live long. He was the Edmund Gordon mentioned by Savage (Genealogical Dictionary, ii. 280), who came over in 1635 with his sister and brother-in-law, Richard Saltonstall. See pp. 193–198, above.

incorrect, and Dr. Murray recently informed me that his readers had not furnished him with a single American example. Yet, in one way or another, the word has been in use in this country for nearly three centuries, and its history here is not without interest.[1]

Of the several Counties Palatine that existed in England in the Middle Ages, but one is mentioned in the early American charters. The rights of the County Palatine of Durham were granted in no fewer than seven or eight charters.[2] In the Charter of Avalon, dated 7 April, 1623, Sir George Calvert was allowed —

> To have exercise use and enjoy the same, as any Bishop of Durham within the Bishopprick or County Palatine of Durham in our Kingdome of England hath at any time heretofore had, held, used, or enjoyed, or of right ought or might have had, held, used, or enjoyed.[3]

In the Patent of Carolana, dated 30 October, 1629, Sir Robert Heath was allowed —

> To have exercise use & enjoy in like manner as any Bishop of Durham within the Bp^ricke^ or County palatine of Durham in our Kingdome of England ever heretofore had held used or enjoyed or of right ought or could have hold use or enjoy.[4]

It was long thought that the Charter of Maryland was modelled on Heath's Patent of Carolana; but it is now known that the Maryland Charter, granted 20 June, 1632, to Cecil Calvert, second Baron Baltimore, was drawn by his father, George Calvert, first Baron Baltimore,[5] and was based on Calvert's Charter of Avalon (1623). In the Charter of Maryland occur these words:

> . . . habendis exercendis utendis et gaudendis prout aliquis Episcopus *Dunelmensis* infra Episcopatum sive Comitatum Palatinum *Dunelmensem*

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[1] The word *palatine* is adapted from the French *palatin*, an adaptation of the Latin *palatinus*; and has been employed in England since at least as early as 1436. See the Oxford Dictionary.

[2] In his County Palatine of Durham (Harvard Historical Studies), Prof. G. T. Lapsley does not mention these American charters.

[3] In J. T. Scharf's History of Maryland, i. 35.

[4] North Carolina Colonial Records, i. 7.

[5] George Calvert was created Baron Baltimore in 1625 and died 15 April, 1632, shortly before the Charter of Maryland was issued.

in Regno nostro *Angliæ* unquam antehac habuit tenuit usus vel gavisus fuit seu de jure habere tenere uti vel gaudere debuit aut potuit.[1]

In the Patent for New Albion, granted to Sir Edmund Plowden 21 June, 1634, occur these words:

. . . habend' exercend' utend' & gaudend' put aliquis Episcopus Dunelmens' infra Episcopatum sive Comitatum Palatinatum Dunelmense infra regnū nr̃m Angl' unquam antehac hũit tenuit usus vel gavisus fuit seu de iure hc̃re tenere uti vel gaudere debuit aut potuit Ipsumq' Edmond' Plowden milit' . . . & eiusdem Comitem Pallatinū et gubñatorem cum tot tant' & tal' titlis addicc̃oe dignitat' & privileg' p̄ p̄sent' facim' cream' et constituim' quot quant' et qual' Georgius Calvert miles infra Provinciam sive comitat' Pallatin' de Avalonia infra terr' nr̃am novam vel ut p̄dc̃us dñs de Baltamore infra Maryland.[2]

In the Charter of New Hampshire granted 19 August, 1635, to Captain John Mason, occur the words which follow. It should be stated, however, that the authenticity of this Charter is in doubt.

Wee doe give grant and confirme . . . as now are or at any time heretofore have been had used or enjoyed or of right ought to be or to have been used or enjoyed by the now or any former Bishop of Duresme within the Bishoprick of Duresme or the County Palatine of Duresme within Our Realme of England.[3]

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[1] In E. Hazard, Historical Collections (1792), i. 329 An English translation is given by Scharf, History of Maryland, i. 54. *Cf.* the Archives of Maryland, iii. 18.

[2] Pennsylvania Magazine (1883), vii. 57. An English translation is given by Hazard, Historical Collections, i. 160–169, taken from a pamphlet issued in 1784 by Charles Varlo. In the nineteenth century this Patent was generally regarded as a forgery, and as late as 1899 Sir Edmund Clarke asserted that the papers which Varlo brought to this country "were probably forgeries" (Dictionary of National Biography, lviii. 154). In 1881 Mr. G. D. Scull stated that "in the Bodleian Library at Oxford, there is a MS. copy in Latin of the Letters Patent granted to Sir Edmund Plowden in Dublin" (The Evelyns in America, p. 361). Already, however, in 1880 "it had occurred to Mr. Brinton Coxe, of Philadelphia, to have a search instituted in the proper office at Dublin for the same letters patent, said by Varlo to be on record in that city, and almost by return mail had been received the certificated copy of the paper, which we take satisfaction in reproducing *literatim*" (Pennsylvania Magazine, vii. 54, 55).

[3] Documentary History of the State of Maine, vii. 208. *Cf.* J. W. Dean, Captain John Mason (Prince Society), p. 363.

In Sir Ferdinando Gorges's Charter of Maine, dated 3 April, 1639, occur the words:

> . . . together with all and singuler, and as large and ample rights, jurisdicons, priviledges, prerogatives, royallties, liberties, imunities, fraunchisses and hereditaments, . . . as the Bishop of Durham within the Bishopricke or Countie Palatine of Duressme in my Kingdome of England, now hath, vseth, or inioyeth, or of right ought to have, vse, and inioy within the said Countie Palatine.[1]

In the First Charter of Carolina, dated 24 March, 1663, will be found these words:

> KNOW YE, therefore, that we, . . . by this our present Charter, . . . do Give, Grant and Confirm . . . all that territory or tract of ground, . . . To have, use, exercise and enjoy, and in as ample manner as any Bishop of Durham in our Kingdom of England, ever heretofore have held, used or enjoyed, or of right ought or could have, use, or enjoy.[2]

The same words, with slight variations, occur in the Second Charter of Carolina, dated 30 June, 1665.[3]

It is thus seen that several Proprietors had Palatinate rights, and it would not have been at all surprising had the title Palatine been applied to the person or persons to whom the above charters were granted. Nevertheless, except in two instances, there is no proof that Palatine was so applied.

Referring to Sir Ferdinando Gorges, a writer recently said: "It was in the year 1639 that he was created Lord Palatine of Maine."[4] Gorges spoke of himself as "Lord Proprietor and owner of the Province of Maine"[5] or as "Lord of the Province of Maine,"[6] while his grandson, Ferdinando Gorges, also spoke of himself as

[1] Hazard, Historical Collections, i. 444. *Cf.* Documentary History of the State of Maine, vii. 225, 344–346, 351–355; Collections Maine Historical Society, i. 400.

[2] South Carolina Statutes, i. 23. *Cf.* North Carolina Colonial Records, i. 22.

[3] South Carolina Statutes, i. 32; North Carolina Colonial Records, i. 103.

[4] Capt. Thorne George, in Notes and Queries, 11 July, 1903, Ninth Series, xii. 23. See also pp. 347, 417, 496.

[5] Hazard, Historical Collections, i. 458.

[6] *Ibid.* i. 470, 480.

the "Lord Proprietor of the Province of Mayne."[1] Our associate Mr. James P. Baxter, whose knowledge of the history of Maine is unsurpassed, tells me that he has never encountered the title "Lord Palatine;" and, unless evidence to the contrary can be produced, it is safe to conclude that such a title was never employed by Gorges.

In the Century Dictionary we read that "the same name [Palatine] is sometimes given to the proprietor of the province of Maryland." Here again the statement may be regarded as erroneous, for the actual title employed by the Proprietor of Maryland was "Lord Proprietary," thus corresponding to the "Lord Proprietor" of Maine and to the "Lords Proprietors" of Carolina. Indeed, the word Palatine, with a single exception presently to be mentioned, seems never to have been used in this country as the title of a person before the year 1669. Among the eight original Proprietors of Carolina was the famous Earl of Shaftesbury, then (1663) Lord Ashley. In 1666 he made the acquaintance of John Locke, and in 1669 the Fundamental Constitutions of Carolina were drawn up. These are generally attributed to Locke, but the exact share which each had in their preparation has never been determined.[2] In the First Charter and in the Second Charter of Carolina, there was a clause in regard to Colonial titles of honor;[3] but what was vague in 1663 and 1665 had become specific in 1669, and then for the first time we meet with the titles Palatine, Landgrave, and Cacique.[4] When the Shaftesbury Papers came into the possession of the Public

[1] Documentary History of the State of Maine, vii. 301, 302.

[2] In the Dedication to his Collection of Several Pieces of Mr. John Locke, Never before printed, or not extant in his Works, published in 1720, Pierre Desmaizeaux wrote:

> My Lord Ashley, afterwards so well known by the title of Earl of Shaftesbury, was distinguish'd by an exquisite judgment, an uncommon penetration, and a deep insight into civil affairs. The other Proprietors desir'd him to draw up the Laws necessary for the establishment of their new Colony: to which he the more readily consented, because he relied on the assistance of Mr. Locke, who had the good fortune to gain his confidence and friendship.

See also Locke's Works (1823), x. 175–199; H. Williamson, History of North Carolina, i. 104–111; Dictionary of National Biography, xii. 117, xxxiv. 29.

[3] North Carolina Colonial Records, i. 29, 110, 111.

[4] See Mr. Toppan's paper on The Failure to Establish an Hereditary Political Aristocracy in the Colonies, read before this Society in March, 1897 (Publications, iii. 407–415).

Record Office, there was found among them a draft of the Fundamental Constitutions of Carolina in the handwriting of Locke. Two of its clauses are as follows:

The eldest of the lords proprietors shall be palatin, & upon ye decease of ye palatin ye eldest of the seven surviveing proprietors shall always succeed him. . . . The Chancellors Court, consisting of one of ye proprietors & his six councillers, who shall be called vice chancellors, shall have ye custody of ye seal of ye Palatinate, under wh. all charters of lands, or otherwise com'issions & grants of ye Palatins court shall passe, etc.[1]

This document was dated 21 July, 1669. On March first, 1669–70, the Fundamental Constitutions received their final form. A few extracts will show the use of the word Palatine in Carolina.

At a Meeting of the Propriators of Carolina held at the Cockpitt the 21st of October 1669. The Duke of Albemarle was elected the first Pallatin of Carolina.[2]

At a Meeting of the Proprietors of Carolina at Sir George Carteretts Lodgings at Whitehall the 20th of January 1669[–70]. . . . George Duke of Albemarle the first pallatin of Carolina being dead The Lord Berkeley being the eldest in years of the surviving proprietors succeeded him and was admitted the second pallatin of Carolina.[3]

1669–70, March 1. Whatever passes under the seal of the Palatinate, shall be registered in the proprietor's court to which the matter therein contained, belongs.[4]

1670. Yourselfe and the five Deputys of the respective proprietors are to represent the Pallatines Court and exercise the same Jurisdictions and powers that by our fundamentall Constitutions and forme of Government to that Court doth appertaine.[5]

1682. To the Right Honourable William Earl of Craven Pallatine, and the rest of the true and absolute Lords and Proprietors of the Province of Carolina.[6]

1707. I shall next proceed to treat of the Government, as granted by

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[1] Thirty-third Annual Report of the Deputy Keeper of the Public Records (1872), pp. 258, 262.

[2] North Carolina Colonial Records, i. 179.

[3] *Ibid.* i. 180.

[4] *Ibid.* i. 194.

[5] *Ibid.* i. 181.

[6] S. Wilson, Account of the Province of Carolina, in B. R. Carroll, Historical Collections of South Carolina, ii. 20.

Charles II. to the Eight Lords Proprietors aforesaid, who again, by common consent, center'd that Power in Four of them, *viz.* in a Palatine of their own election, and Three more who were impower'd to execute the whole Powers of the Charter, and is call'd a Palatines Court; their Deputies in *Carolina* executing the same, as from their Principals they are directed.[1]

1726. It had been usual with them to appoint a Governor and seven Deputies, called the Council, the first of which (the Governor) represented the Palatine, and the others the rest of the *Lords Proprietors*, respectively, and were called the Upper House of Assembly.[2]

In Carolina the term Palatine was for over half a century in use as the title of a person.[3] Nowhere else in this country do we meet with that exact title. But in a single instance the title of "Earl Palatine" was claimed and used. One of the most curious, romantic, and obscure episodes in the history of American colonization was the attempt made by Sir Edmund Plowden to found New Albion. The story may be briefly outlined. In or about June, 1632, Plowden presented to Charles I. a petition—

Humbly beseeching yor most Excellent Matie to comand the Ld Chauncelor of Ireland to make to yor subiects y^r^ Adventurers a pattent vnd^r^ yor seale of Ireland of the saied Isle and 30 myles square of the coste next adjoyneing to be erected into a County Palatine called Syon to be held of yor Maties Crowne of Ireland . . . and wth the like title, dignity and priuiledges to Sr Edmund Plowden there as was graunted to Sr George Caluert K^t^ in Newfound land by yor Maties Royall father.[4]

On 24 July, 1632, Charles wrote to the Lords Justices:

Whereas the said Petitioners have made humble Suite to us for our Royal Grant of the said Isle, and forty Leagues square of the adjoining

[1] J. Archdale, Description of Carolina, p. 12.

[2] F. Yonge, Narrative of the Proceedings of the People of South Carolina in the Year 1719, in B. R. Carroll, Historical Collections of South Carolina, ii. 144.

[3] In his sketch of Locke, Sir Leslie Stephen falls into the singular error of alluding to the Fundamental Constitutions of Carolina as "a piece of constitution-mongering which never came into operation" (Dictionary of National Biography, xxxiv. 29). The Charter of 30 June, 1665, was surrendered to the Crown on 25 June, 1729 (South Carolina Statutes, i. 40, 41).

[4] Collections of the New York Historical Society for 1869, p. 214. The document is without date, but in the Calendar of State Papers, Colonial Series, 1574–1660, p. 154, it is assigned to "June ?"

Continent to be held of us as of our Crown of that our Realm of *Ireland*, in the Nature of a County Palatine or Body-Politick by the Name of *New Albion*, . . . Our Pleasure is, and we do hereby authorise and require you . . . to cause a Grant of the said Isle . . . to be made unto the Petitioners and their Heirs for ever.[1]

As we have already seen, the grant of New Albion was finally obtained 21 June, 1634.[2] An expedition soon came over, Plowden himself arrived in or about 1641, but he was driven off by the Swedes, and the attempted plantation proved a dire failure. After wandering about this country for many years, Plowden finally reached Boston, for under date of 4 June, 1648, we find Governor John Winthrop writing as follows:

Here arrived one Sir Edmund Plowden, who had been in Virginia about seven years. He came first with a patent of a county Palatine for Delaware Bay, but wanting a pilot for that place, he went to Virginia, and there having lost the estate he brought over, and all his people scattered from him, he came hither to return to England for supply, intending to return and plant Delaware, if he could get sufficient strength to dispossess the Swedes.[3]

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[1] Strafford's Letters and Dispatches (1739), i. 72; Collections of the New York Historical Society for 1869, p. 219.

[2] See p. 205, above.

[3] History of New England (1853), ii. 396. Other references to New Albion and to Plowden will be found in the Collections of the New York Historical Society, iii. 379; Collections of the New York Historical Society, Second Series, i. 334, 335, ii. 279, 323–326; Collections of the New York Historical Society for 1869, pp. 3, 221, 222; New York Colonial Documents, i. 289, ii. 82, 92, xii. 51 and *note*, xiii. 486, xiv. 57; Calendar of State Papers, Colonial Series, 1574–1660, p. 336; *Ibid.*, 1675–1676, p. 85; Archives of Maryland, iii. 373; S. Smith, History of New Jersey (1765), pp. 24, 24–32 *notes*; J. Penington, in Memoirs of the Historical Society of Pennsylvania, iv. (i.) 132–165; T. F. Gordon, History of New Jersey, pp. 17, 18, 333; Gentleman's Magazine, August, 1840, pp. 163–167; I. Mickle, Reminiscences of Old Gloucester (1845), p. 95; Collections of the New Jersey Historical Society, i. 8; Proceedings of the New Jersey Historical Society, vi. 25; S. Hazard, Annals of Pennsylvania, pp. 36–38, 109–112; Notes and Queries, First Series, iv. 58, 165, 319–322, ix. 301, 302; J. R. Brodhead, History of the State of New York, i. 140 *note*, 381, 484, 485, 754, 755; E. D. Neill, Founders of Maryland, p. 57 *note*; E. D. Neill, in Pennsylvania Magazine, v. 206–216, 424, 425; Pennsylvania Magazine, vii. 346–349; F. B. Lee, New Jersey as Colony and State, i. 75–84; E. Hazard, Historical Collections, i. 170–174; I. S. Mulford, Civil and Political History of New Jer-

But however unsuccessful Plowden was in his efforts to settle a colony here, he at least succeeded in coining a new title for America — that of "Earl Palatine."

1634, December 20. WHEREAS our Sovereign Lord King Charles, by his highnesses letters-patent, under the great seal of Ireland, bearing date the one-and-twentienth day of June, 1634, hath granted and confirmed to Us, . . . the said title of Earl Palatine, and office of governor.[1]

1641. Sir *Edmund* our noble Governour and Lord Earl Palatine, . . . is sufficiently instructed of the state of the country, and people there. . . . And truly I beleeve, my Lord of *Baltamore* wil be glad of my Lord Palatines Plantation and assistance against any enemy or bad neighbour.[2]

1648. Now there be four other Lord Proprietors that have Palatine jurisdiction granted, and Provinces in the *West-India* Isles, *Florida* and *Maryland*, and as free as the Bishop of *Durham* had, but none have a speciall creation of an Earle Palatine, but ours of *New Albion*.[3]

1655, July 29. I, Sr Edmund Plowden of Wansted in the county of Southton Knight, Lord, Earle Palatine, Governor and Captain Generall of the Province of New Albion.[4]

The sequel of Plowden's attempt at colonization was singular. Shortly before the outbreak of the Revolutionary War, Charles Varlo bought one-third of the Charter of New Albion. The times not being then propitious, Varlo waited until 1784, when he issued a pamphlet and inserted in a London newspaper an advertisement which reads in part as follows:

To be lett, in the finest part of America, on leases of lives renewable for ever, in such fixed farms as may be agreed on, the estates of the

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sey, pp. 67–75; W. Nelson, Fifty Years of Historical Work in New Jersey, pp. 10, 11 and *note*. The only full and accurate account of "this curious episode in the history of English colonization in America" will be found in G. B. Keen's Note on New Albion in the Narrative and Critical History of America, iii. 455–468.

[1] Hazard, Historical Collections, i. 172, 173.

[2] R. Evelin, in B. Plantagenet, Description of the Province of New Albion (1837), pp. 21, 23. (Force's Tracts and Other Papers, ii.)

[3] B. Plantagenet, *Ibid.* p. 13. Who Beauchamp Plantagenet was, has never been discovered. Plantagenet's pamphlet was reprinted at Oxford, England, in 1881 by G. D. Scull in his Evelyns in America, pp. 67–115, and at Rochester, New York, in 1898 by G. P. Humphrey in his American Colonial Tracts.

[4] Pennsylvania Magazine, vii. 51.

Earl Palatine of Albion, consisting of Long-Island, together with 120 miles square on the continent, one side of which joins the sea from Sandy-Hook to Cape May, called New-Albion. This Province is not one of the 13 included[1] in the articles of peace between the Congress and England. . . . The lands are good, and will be let very cheap to industrious tenants. The charter, and conditions of letting the lands, &c. are printed in a pamphlet, price one shilling, sold by Mr. Reynell, printer, No. 11, Piccadilly, London. Letters post paid, and signed with real names, directed for E. P. at the said printer's, will be answered to the purpose, by the Agent to the Earl of Albion.[2]

In May of the same year Varlo, according to his own account, "broke up housekeeping in Sloane-Square, where I then resided, and with my family embarked for America, invested with proper power as Governor to the Province of New Albion."[3] He reached Philadelphia July twenty-fourth,[4] circulated his pamphlet called

[1] Is it possible that we have here the origin of the joke about New Jersey's not being within the United States?

[2] Massachusetts Centinel, 14 August, 1784, p. 2/3. The extract in the text is preceded by the following:

As a paper in the style of a Proclamation, and signed ALBION, *has lately made its appearance in Philadelphia, and excited the curiosity of the publick — we may perhaps stand excused for inserting the following advertisement, copied from the* London Evening Post *of the 22d of January last.*

These extracts, together with others from Varlo's writings, were printed by Mr. William Kelby in the Pennsylvania Magazine, vii. 346–349; but the words "directed for E. P." are wrongly given as "directed for E. F." Presumably the initials "E. P." stand for "Earl Palatine."

[3] Pennsylvania Magazine, vii. 348.

[4] The following extract from the Massachusetts Centinel of 14 August, 1784, has not, so far as I am aware, been reprinted:

PHILADELPHIA, July 28.

Saturday last the brigantine Bloodhound, Capt. Rawbottom, arrived here in eight weeks from London. . . .

In the above vessels arrived a number of respectable passengers, among which Charles Varlo, Esq; Governor, and Proprietor (agreeable to charter) of New Albion, which province includes Long Island and forty leagues square in the Jerseys.

It is very remarkable that this is only the third Governor since King Charles the First granted the charter. — Earl of Albion, the second Governor, being killed by the Indians, the copy of the charter was lost, and even the name of the province forgot, until the present heir, being a Peer in Ireland, found the original charter registered among the records of that kingdom.

The present Governor, we are told, is a natural genius, and a literary man — having invented many improvements in agriculture; and is also the author of a valuable work, called, "The New System of husbandry;" and has also employed his pen in defence of the Americans in the late contest (p. 2/2).

The Finest Part of America,[1] and employed William Rawle of Philadelphia as counsel; but of course his effort to establish his claim was futile.

The uses of the word Palatine thus far considered long ago became obsolete in this country except historically. There is, however, still another meaning of the word, though curiously enough this has apparently not yet found its way into the dictionaries.[2] Explanations differ as to why many Germans emigrated from the Palatinate of the Rhine to England in the first decade of the eighteenth century, but such an exodus did take place in 1708.[3] Of the Palatines who then came to England, some were sent to Ireland, others to Carolina, and still others to New York, while in later years emigrants came to this country in large numbers. This sense of the word is illustrated by the extracts which follow.

1709, June 18. 'T is said a brief was then ordered for a collection in London and Middlesex to releive the poor Palatines, and that the commissioners of trade and plantations are to take care of them till the West India fleet goes, when they are to embark for Nevis and St. Christopher's, to repeople those islands destroyed by the French.[4]

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[1] The pamphlet is rare, but there is a copy (lacking the title-page) in the Washington Collection in the Boston Athenæum.

[2] Since this sentence was written, the section of the Oxford Dictionary containing the word Palatine has been published. Dr. Murray gives one earlier citation (dated 1708) than those in the text for the word Palatine in this sense. He also shows that the word Palatinate has occasionally been employed in the same sense and quotes examples from the London Gazette (1709) and the Critic (1890). The same word is also found in H. F. Reddall's Fact, Fancy, and Fable (1889):

Palatinates. Persecuted Protestantes who emigrated from the Upper and Lower Palatinate in Germany, in the seventeenth century, to Pennsylvania (p. 396).

[3] See, besides the references in the text, Burnet, History of His Own Times (1809), iv. 280, 281, 314, 315; H. Williamson, History of North Carolina, i. 178–186, 275–281; S. Earl, The Palatines and their Settlement in the Valley of the Upper Mohawk, in Transactions of the Oneida Historical Society (1881), pp. 31–51; A. D. Mellick, German Emigration to the American Colonies, in the Pennsylvania Magazine, x. 241–250, 375–391; T. F. Chambers, The Early Germans of New Jersey (1895); S. H. Cobb, Story of the Palatines (1897); C. B. Todd, Story of the Palatines, in Lippincott's Magazine (1883), xxxi. 242–252.

[4] N. Luttrell, Brief Relation of State Affairs (1857), vi. 454.

1709, July 23. 300 more poor Palatines are arrived [in London], so that the whole number here is about 8000.[1]

1709, August 9. The commissioners for providing for the poor Palatines, upon inspecting the subscriptions of the nobility and gentry, find that about 15,000*l.* is already given for their support; abundance of them are gone hence in waggons for Chester, to embark for Ireland, and the rest designed for that kingdom will speedily follow.[2]

1709, August 30. If it shall not be thought Convenient to settle the whole number of the poor Palatines on the Island of Jamaica, We offer to Your Lord[ps] consideration. That such of them as shall not otherwise be disposed of may conveniently be settled upon Hudson's River in the Province of New York.[3]

1709, September 3. To the 2nd Proposal relating to the poor Palatines that shall be transported into North Carolina, It was resolv'd that their Lordships will not undertake to provide them with all provisions they shall want but they will give directions to their Receiver General to supply the Palatines with such provisions as he shall have of their Lordships in his hands and may be spared from the necessary use of the government at the same rates he received them.[4]

1710, June 16. I arrived here [New York] two days ago. We want still three of the Palatin Ships & those arrived are in a deplorable sickly condition.[5]

1710. Lastly, We humbly offer, that the said *Palatines*, upon their Arrival there, be naturalized, without Fee or Reward.[6]

1710, November 11. *At this Time, I have occasion to remind you of one* [benefit from Queen Anne], *that is, that Addition to your Wealth and Strength by the Settling of the* Palatines *amongst you, by her Majesty's signal Bounty, and at her Expence.*[7]

1711, October 15. On the 22nd of the last month some towns of the Tuscaruro Indians and other Nations . . . began a barbarous Massacre, on the Inhabitants of the Frontier plantations, killing . . . 60 English and upwards of that number of Swiss and palatines.[8]

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[1] N. Luttrell, Brief Relation of State Affairs (1857) vi. 467.

[2] *Ibid.* vi. 474. *Cf.* vi. 413, 472, 473.

[3] New York Colonial Documents, v. 87. *Cf.* v. 44.

[4] North Carolina Colonial Records, i. 718.

[5] R. Hunter, New York Colonial Documents, v. 165. This early attributive use of Palatine may be noted.

[6] Journal of the Votes and Proceedings of the General Assembly of the Colony of New York (1764), i. 284.

[7] R. Hunter, in Journals of the Votes and Proceedings of the General Assembly of the Colony of New York, i. 284.

[8] A. Spotswood, Official Letters (1882), i. 116. It was in this massacre that

1711, October 23. *Ordered*, That ye Secretary acquaint ye Assembly that his Excellency . . . did . . . Disband ye fforces . . . against Canada Retaineing in pay one hundred and fifty men . . . and That he will compleat their number out of ye Palatines.[1]

1717, September 9. Capt. Richmond, Capt. Towor, & Capt. Eyers, waited upon the Board with the List of the Palatines they had Imported here [Philadelphia] from London.[2]

1724. Beyond this are seated the Colony of *Germans* or *Palatines*, with Allowance of good Quantities of rich Land.[3]

1727, September 21. A Paper being drawn up to be signed by those Palatines, who should come into this Provinc with an Intention to settle therein, . . . was this day presented, read & approved, & is in these Words:

> We Subscribers, Natives and late Inhabitants of the Palatinate upon the Rhine & Places adjacent, having transported ourselves and Families into this Province of Pensilvania, . . . Do Solemnly promise & Engage, that We will be faithful & bear true Allegiance to his present MAJESTY KING GEORGE THE SECOND.[4]

RUN away Yesterday from *Francis Smith* of *Evesham* in the County of *Burlington*, a Servant Man named *John Haversach*, aged about 40 Years, of middle Stature, has had the Small-Pox, his Complexion ruddy, brown Hair and a whitish Beard; He is by Birth a Palatine, but has travelled in the Armies by Land in *France*, *Spain*, *Germany*, *Italy*, *Turkey*, *England and Scotland*, and can speak their Languages; he speaks *English* indifferently well.[5]

1735, July 26. On Sunday last arrived two hundred Palatines.[6]

1739. RAN-*away on the* 23d *of May last*, . . . a Dutch Palatine Servant Man, named *Jacob Lasant*, about 20 Years of Age, of middle

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John Lawson, the surveyor, lost his life. His New Account of Carolina was published in 1709.

[1] Journal of the Legislative Council of the Colony of New York (1861), i. 323.

[2] Pennsylvania Colonial Records, iii. 29.

[3] H. Jones, Present State of Virginia, p. 59.

[4] Pennsylvania Colonial Records, iii. 283. For other references to the Palatine emigrants into Pennsylvania, see *Ibid.* iii. 241, 282, 284, 285, 287, 288, 290, 322, 323, 327–329, 331, 332, 367, 368, 385, 386, 413, 414, 416, 417, 431, 452–458, 465, 466, 515–519, 524, 568, 570, 593, 597; iv. 58, 59, 72, 99, 315; v. 112, 140; vi. 170–175.

[5] Pennsylvania Gazette, 13–20 June, 1734, in New Jersey Archives, xi. 347.

[6] South Carolina Gazette, in E. McCrady's History of South Carolina under Royal Government (1899), p. 129.

Stature and well set, . . . he can speak very good French, and pretends to be a Butcher.[1]

1754, November 13. A Sickness prevailing in the Town [Philadelphia] (tho' no formal Information has been given of it by any of the Citizens), owing to the Unhealthiness of the Vessels and the Palatine Passengers that have arrived this Year, the Secretary was ordered to desire the Doctors to visit all the Palatine Ships now in Harbour, and all the Houses within the City where any such Palatines had been entertained, and to make their Report to the Governor this Day in Council; . . .

Ordered, That Mr. Bourne, the Health Officer, should immediately give Notice to all the Captains and Owners of Palatine Vessels now in Harbour not to land any Bedding or Sick Palatines within a Mile of the City.[2]

1760. For, in or about this time [1711], the Jesuits among the French had instigated the Indians in the southern parts to fall on the English, as they did in the back parts of Pennsylvania, — where they butchered great numbers of the Palatines, — and extended their slaughters to Virginia and Carolina.[3]

1884. The "Palatines," or German fugitives from the Palatinate, . . . did not enter Maryland in any numbers until towards the middle of the eighteenth century.[4]

1899. The Germans — Palatines, as they are styled in the quotation from the *Gazette* — who thus worked their way were called Redemptioners, and from them have come some of our best citizens.[5]

1901. So many of its [Rhenish Palatinate's] inhabitants fled that in America all German immigrants were called Palatines, and we even encounter in colonial records that nondescript "A Palatine from Holsteyn."[6]

1901. Indeed, later in the [eighteenth] century when speculation had taken possession of ocean transportation, sickness was so unfailing a concomitant of the journey that ship-fever was generally known in Philadelphia as "Palatine fever."[7]

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[1] American Weekly Mercury, 31 May–7 June, 1739, in New Jersey Archives, xi. 569.

[2] Pennsylvania Colonial Records, vi. 169.

[3] S. Niles, 4 Massachusetts Historical Collections, v. 332. See p. 214, above.

[4] W. H. Browne, Maryland, p. 181.

[5] E. McCrady, History of South Carolina under Royal Government, p. 129.

[6] Lucy F. Bittinger, The Germans in Colonial Times, p. 6.

[7] O. Kuhns, The German and Swiss Settlements of Colonial Pennsylvania, p. 71.

1901. As early as 1710 some Palatines came into the province and settled in that [Frederick] county. . . . In 1735 Daniel Dulany offered sufficiently favorable terms to induce about one hundred families recently arrived from the Palatinate to settle on some of his land in the same county.[1]

It may be added that as a place-name Palatine still survives, there now being towns, villages, or hamlets named Palatine in Illinois, Kansas, New Jersey, New York, and West Virginia. There is also a townland called Palatine in County Carlow, Ireland.[2]

The traditions of the Palatine Light and of the shipwreck of a Palatine vessel at Block Island deserve consideration, as they have passed into literature, having inspired the elder Dana,[3] Whittier,[4] Colonel Higginson,[5] and the Rev. Edward E. Hale.[6] Though these traditions without doubt existed in the eighteenth century, they do not seem to have found their way into print until about a century ago, and their origin is veiled in obscurity. The earliest mention I have found of them is in the following passages:

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[1] N. D. Mereness, Maryland as a Proprietary Province p. 122.

[2] For allusions to the Palatines in Ireland, under dates of 1756, 1776, and 1778, see J. Wesley, Works (1826), ii. 342–344, iv. 14; A. Young, Tour in Ireland (1780), ii. 123, 138, 151; L. Tyerman, Life and Times of J. Wesley, ii. 146, 238, 354.

[3] The Buccaneer, Poems (1827), pp. 1–42. In his Preface, Dana says:

I shall not name the island off our New England coast upon which these events happened and these strange appearances were seen; for islanders are the most sensitive creatures in the world in all that relates to their places of abode (p. vi).

In spite of this reticence, there can be no doubt that Dana had Block Island in mind, though there is no allusion to the Palatines. *Cf.* stanzas, i, li, lii, lviii, lxix, lxxi, xc, xci, cxi, cxv–cxvii.

[4] The Palatine, Atlantic Monthly for January, 1867, xix. 51–53; Poetical Works (1888), iv. 274–278. Mr. Pickard says: "In a note to Mrs. Fields he [Whittier] gives the first hint of his ballad 'The Palatine,' August 18, 1867" (Life and Letters of Whittier, ii. 526, 527). As the poem was printed in January, 1867, it is evident that Mr. Pickard has made a slight error in dating the letter.

[5] The Last Palatine Light, in The Afternoon Landscape (1889), pp. 59–63. I am indebted to Mr. Andrew McF. Davis for this reference.

[6] Christmas in Narragansett (1884), pp. 284–293. Again I am indebted to Mr. Davis for the reference.

To the Editors of the Medical Repository.

If the following articles are deemed of sufficient importance, you are at liberty to give them a place in your valuable publication.

AARON C. WILLEY.

Block-Island, June 25, 1810.

5. JACK O' LANTHORN.

I purpose to send you, shortly, an account of a singular and curious phenomenon which is sometimes seen on the ocean near this place. It is a wandering, lambent flame, which has long astonished ignorance and superstition, and I believe, will not a little rack the ingenuity of philosophy to afford a satisfactory explanation.[1]

The account which Dr. Willey promised to send "shortly" was not written until a year and a half later and was not printed until 1813, in which year there appeared a long article from which the following extracts are drawn:

METHEORIC APPEARANCE CALLED THE PALATINE LIGHT.

(*By Aaron C. Wiley.*)

Block Island, December 10, 1811.

. . . This curious irradiation arises from the ocean near the northern part of the island. Its appearance is nothing different from that of a blaze of fire. It beams with various magnitude; being sometimes small, resembling the light of a distant window, at others expanded to the bigness of a ship with all her canvass spread. . . . It actually diffuses the luminous principle. A gentleman, whose house is situated near the sea, informs me, that he has known it to illuminate considerably the walls of his room through the windows. It approaches within half a mile of the shore, at others is seen blazing at six or seven miles distance. It has been discovered from the adjoining part of the continent, and at first, mistaken for a vessel or building on fire. . . . The first time I beheld it was evening twilight, in February, 1810. It was large, and gently lambent; very bright, broad at the base, and terminated acutely upward. From each side seemed to issue rays of faint light, similar to those perceptible in any blaze placed in the open air, and viewed in the night. It continued about fifteen minutes from the time I first observed it, and then slowly became smaller and more dim till it was

[1] Medical Repository for February, March, and April, 1811, Third Hexade, ii. 387, 389.

entirely extinguished. I saw it again in the evening of December the 20th. It was then small. At first I supposed it to be a light on board of some vessel. . . .

This lucid motion is known by the name of the *Palatine Light.* By the ignorant and superstitious it is thought to be supernatural. Its appellation originated from that of a ship called the *Palatine,* which was designedly cast away at this place in the beginning of the last century, in order to conceal, as tradition reports, the murder and inhuman treatment of the unfortunate passengers. From this time it is said the *Palatine Light* began to appear; and there are many who firmly believe it to be a ship on fire, while their fantastic and distempered imaginations figure masts, ropes, and flowing sails.

The cause of this "wavering brightness" is a curious subject for philosophical investigation. . . . I have stated facts, but feel a reluctance to hazard any speculations. These I leave to you [Dr. Samuel L. Mitchill] and other erudiate researchers of created matter.[1]

A story not unlike the above, but with some gruesome additions, was told to Whittier by Joseph P. Hazard of Rhode Island and formed the basis of Whittier's poem. Variations of course occur. About two years after his poem was printed, Whittier received a letter from Benjamin Corydon of Napoli, New York, in which that gentleman said:

The "Palatine" was a ship that was driven upon Block Island, in a storm, more than a hundred years ago. Her people had just got ashore, and were on their knees thanking God for saving them from drowning, when the islanders rushed upon them and murdered them all. That was a little more than the Almighty could stand, so He sent the Fire or Phantom Ship to let them know he had not forgotten their wickedness. She was seen once a year, on the same night of the year on which the murders occurred, as long as any of the wreckers were living; but never after all were dead. I have seen her eight or ten times — perhaps more — in my early days. It is seventy years or more since she was last seen. My father lived right opposite Block Island, on the main land, so we had

[1] Medical Repository (1813), New Series, i. 408–410. Dr. Willey's letter is printed in Arnold's History of Rhode Island (1860), ii. 88–91, from the Rhode Island Republican of 16 March, 1836, taken from the Parthenon. This last, I suppose, was a magazine of that name published in New York in 1827, but of which I have found no copy. Dr. Willey's letter is also printed in several of the books referred to in a note on p. 220, below. It was addressed to Dr. S. L. Mitchill (not Mitchell, as usually given).

a fair view of her as she passed down by the island; then she would disappear. She resembled a full-rigged ship, with her sails all set and all ablaze. It was the grandest sight I ever saw in my life. I know of only two living who ever saw her, — Benjamin L. Knowles, of Rhode Island, now 94 years old, and myself, now in my 92d year.[1]

Mr. Corydon was mistaken in thinking that he and Mr. Knowles were the only two then living who had seen the Palatine Light and that it had not been observed for a period of seventy years.[2]

That a vessel bringing Palatines was wrecked at Block Island in the eighteenth century seems certain, but unfortunately no one has yet been able to show exactly when. It is rather singular that one of the first Palatine vessels which came to New York was wrecked. We have already seen that Governor Hunter reached New York on 14 June, 1710.[3] On 24 July he wrote:

By a small vessell bound for Lisbon I gave your Lordships notice of our arrival here, since that time all the Palatine ships separated by the weather are arrived safe except the Herbert Frigat where our Tents and arms are, she was cast away on the East end of Long Island on the 7th of July, the men are safe, but our goods much damaged.[4]

The east end of Long Island is very near Block Island.

In 1887 our associate Mr. Andrew McF. Davis wrote:

I have recently met with a reference to the wreck in a letter which, unfortunately, is not dated, but which must have been written between

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[1] In Picard's Life and Letters of Whittier, ii. 527, 528.

[2] For other references to the Palatine Light and the Palatine Ship, see W. P. Sheffield, Historical Sketch of Block Island (1876), pp. 37–46; S. T. Livermore, History of Block Island (1877), pp. 112–126; S. G. Arnold, History of Rhode Island, ii. 68, 69; O. Kuhns, The German and Swiss Settlements of Colonial Pennsylvania (1901), p. 72; H. T. Beckwith, in Historical Magazine (1858), ii. 98–106; C. Lanman, in Harper's Magazine (1876), liii. 168–178; C. Lanman, Recollections of Curious Characters and Pleasant Places (1881), pp. 296–304; C. B. Todd, in Harper's Magazine (1882), xxx. 537, 541–543; Block Island, R. I., A Summer at Sea (1883), pp. 1, 6; E. E. Pettee, Block Island, R. I. (1884), pp. 96–104; A. W. Brown, in New England Magazine (1888), vi. 107–125; The American (1890), xx. 368–369; S. W. Mendum, in New England Magazine (1897), New Series, xvi. 738–751. Prof. Henry W. Haynes has kindly sent me several references.

[3] See p. 214, above.

[4] New York Colonial Documents, v. 166.

1732 and 1740, with strong probability that it was written in November, 1736.[1]

At a meeting of this society in March, 1893,[2] Mr. Henry H. Edes quoted from a letter written 24 April, 1740, by Peter Faneuil of Boston to Peter Baynton of Philadelphia, in which Faneuil said:

This accompanies Capt. Burgess Hall, who carries with him to your parts two unfortunate Palatine women that were some time ago shipwrecked in their voyage from Europe to your place.[3]

But once more we are not told exactly when and where the shipwreck took place.

In a letter dated 21 May, 1742, and "wrote at Sea between Long & Block Island, 20 miles from New London, in America," John P. Meurer said:

To-day we came to and sailed between Long and Block Island . . . our captain not being certain what course to take for New London, went on board a sloop near us and engaged the pilot to take us in. When he came on board and saw so many passengers, he inquired who we were and from whence we came. When informed, he stated that he had visited Marienborn and had lived some years at Koenigsberg. He has been here 17 years, and came over with 270 passengers who were cast away. . . . He also said, the year before, a ship came from Europe with passengers and just before making the land almost all of them died, and were buried, sometimes 20 — 30 — 40 in one hole.[4]

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[1] Pennsylvania Magazine, xi. 244. Elsewhere Mr. Davis writes:

In looking over the Colman papers, I found a reference to a contribution collected by Colman in behalf of some shipwrecked Palatines on Block Island (Publications of this Society, i. 12).

[2] Publications, i. 114.

[3] In L. M. Sargent's Dealings with the Dead, ii. 519. Other instances of the conveying of Palatines from Boston to Philadelphia are known. Under date of 30 November, 1730, we read:

A List was presented of the names of Twenty four Palatines, who with their Families, making in all about Fifty two Persons, were imported here in the Ship Joyce, William Ford, Master, from Boston (Pennsylvania Colonial Records, iii. 389).

Again, under date of 15 May, 1732, we read:

Thirteen Palatines, who with their Families, making in all ——— Persons, were imported here in the Ship Norris, Thomas Lloyd, Mar., from Boston, did this day take & Subscribe the Effect of the Oaths of Allegiance, Supremacy & Abjuration; and likewise did repeat and Sign the Declaration inserted in the Minute of the 21st September, 1727 (*Ibid.* iii. 429).

[4] Pennsylvania Magazine, xi. 248.

This shipwreck must have occurred in 1725, but we are not told where that pilot lived — whether on Block Island or on Long Island.

It has not hitherto been pointed out, in discussions relating to the wreck of a Palatine vessel, that in 1731 a ship bearing the singularly inappropriate name of Loving Unity, of Falmouth, England, sailed from Rotterdam for Philadelphia. Jacob Lobb, the master of the ship, treated the passengers with great cruelty and the vessel was put into Martha's Vineyard, where the Palatines were detained a long time and their sufferings became the subject of litigation.[1]

[1] Under date of 29 December, 1731, we read in the Massachusetts House Journals:

A Petition sign'd Philip Bongarden, in the Name and behalf of sundry poor distressed *Palatines*, now at *Martha's Vineyard*, within this Province, setting forth, That they were lately brought into said *Martha's Vineyard* from *Rotterdam*, in the Ship *Loving Unity*, *Jacob Lobb* Commander, with whom they entred into a written Agreement at *Rotterdam* aforesaid, for their Passage from thence to *Philadelphia* (a Copy of which said Agreement was therewith exhibited, translated into *English*) That the said Captain had in a most barbarous manner dealt with the Petitioners in their Voyage; praying, that the Court would Order, that the said Capt. *Lobb* may be obliged to answer for the Injuries, Wrongs and Abuses by him done and offered as therein mentioned; as also, that he may be obliged to comply with his Contract, for the transporting the Petitioners and their Goods to *Philadelphia*, and that they may meet with such other Relief as shall be agreeable to Justice (p. 42).[1]

In the Province Laws we get a somewhat more detailed account:

A Petition of Philip Bongarden in behalf of divers distressed Palatines lately arrived at Martha's Vineyard from Holland in the Ship loving Unity of Falmouth Jacob Lobb master, complaining of the cruel & Inhuman Usage they have had from the s^d^ Master, by means of wch One Hundred of their Company are already dead & the survivors in a very sick & languishing Condition, wanting all the necessaries of Life but what they receive from the Charity of the People of Martha's Vineyard; praying that the Master may be obliged to fulfill his Contract by carrying them to Philadelphia where they were bound, & that they may have such other Releif as this Court in their Goodness shall judge fitt (xi. 631).

From still another source we learn that on 28 March, 1732, the agents for the Palatines presented to the Council —

A Memorial . . . further complaining of great hardships brought upon those People at Martha's Vineyard by Captn Lobb, who is bound to save the Town of Edgartown

[1] On 20 December, 1731, it was —

Ordered, That *William Shirley* Esq: be desired to be of Council to Mr. *Philip Bongarden*, and assist him in seeking Relief for the *Palatines* (in whose behalf he appears) in the legal and customary Way in such Cases (Massachusetts House Journals, p. 43).

It is interesting to note the name of Shirley. He is generally said to have come to this country in or about 1733. As a matter of fact, he reached Boston 27 October, 1731 (6 Massachusetts Historical Collections, vi. 21), and this was doubtless one of the first of his public employments. Philip Bongarden was one of the foreign Protestants naturalized 7 December, 1731 (Massachusetts Archives, Council Records, ix. 335).

It was a case not of wreck but of cruelty and of alleged murder on the part of Captain Lobb.[1] It is barely possible that this actual

---

from any charge by reason of their being there, but now refuses to pay the charge of their subsistance, by which means they are threaten'd by the People there to be imprisoned and sold to satisfie for that charge, complaining also of Payn and Zaccheus Mayhew Esq^rs two of his Majesty's Justices of the Peace at Martha's Vineyard for their encouraging and abetting Captn Lobb in his Cruelty (Massachusetts Archives, Council Records, ix. 356).

For further information in regard to these Palatines at Martha's Vineyard, see the Massachusetts House Journals, 6 January, 1735–36, p. 200; Massachusetts Province Laws, xi. 671, 778, 784, xii. 250; Massachusetts Archives, Council Records, ix. 352, 353, 357, 369, 399, 403, 404, 482, 485, 486.

[1] On 20 March, 1731–32, Gov. Belcher wrote in a letter to Gov. Gordon of Pennsylvania:

I recommended the matter to the Gen^ll Assembly (then sitting) who voted the surviving remnant of 'em a charity of £200, and directed Mr Shirley (one of our councellors at law) to prosecute Lahb, which he has done in the Court of Admiralty, and inclos'd is the Judge's decree thereon; and upon receipt of your letter I communicated it to his Majesty's Council, who referr'd it (with a new complaint) to the Superiour Justices of this Province, who have directed him to appear (by the inclos'd order) at their next Court. I am afraid this wicked monster will escape a halter, which I shou'd think too easy a punishment for so many murders as he seems to me justly chargeable with (6 Massachusetts Historical Collections, vi. 109).

In 1859 Joseph Willard wrote:

Two indictments were found against Lobb at the April Term of the Superior Court in Barnstable. . . . Lobb was charged with occasioning the death of Johannes Youngman, about two years of age, son of John Didrick Youngman; and Jacob Comes, jun., about the age of nine years, a Palatine, son of Jacob Comes, — by detaining them on board the vessel after she reached Holmes's Hole; that the child Youngman was infirm and sickly, and languished and died by reason of not being furnished by Lobb with sufficient food to sustain life; and that Comes also died of hunger. According to the allegations in the indictment, Lobb was under contract to supply the passengers with provisions for the voyage. The jury returned verdicts in favor of the captain (1 Proceedings of the Massachusetts Historical Society, iv. 355).

It may not be without interest to conclude this account of the Palatines with an instance of improper conduct on the part not of the officers of the vessel but of the Palatines themselves. The following appeared in the Boston News-Letter of 27 October – 2 November, 1732:

Philadelphia, Octob. 19. Last Sunday arrived here Capt. Tymberten, in 17 Weeks from Rotterdam, with 220 Palatines, 44 died in the Passage. About 3 Weeks ago, the Passengers dissatisfied with the length of the Voyage, were so imprudent as to make a Mutiny, and being the stronger Party have ever since had the Government of the Vessel, giving Orders among themselves to the Captain and Sailors, who were threatned with Death in case of Disobedience. Thus having Sight of Land, they carried the Vessel twice backwards and forwards between our Capes and Virginia, looking for a Place to

case of ill-treatment at Martha's Vineyard has been combined with the wreck of a vessel at Block Island, of which the record is now lost, to produce the traditions which for so long a time have held such sway.

These stories of the Palatine Light and of the Palatine ship are of course curious rather than important, but a hunt in search of baffling details is sometimes of interest. This paper may fitly close with a paragraph recently stumbled on in a Boston newspaper:

SOLE SURVIVOR OF THE PALATINE.

Mrs. Viola Sands Hazard, thought to be the oldest woman in Rhode Island, is dead at her home in Wakefield, R. I., at the age of 105 years. She was known as the only descendant of the sole survivor of the ship Palatine, which was wrecked at Block Island in the eighteenth century, and which has become celebrated as the "Phantom ship" in Whittier's poem.[1]

On behalf of Mr. WORTHINGTON C. FORD, Mr. HENRY H. EDES communicated copies of some verses on the death of Increase Nowell in 1655, of Governor Endicott in 1665, and of Henry Withington in 1666, and of the Epitaph of William Pole of Dorchester, who died in 1675.[2] These follow.

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go ashore they knew not where. At length they compelled the Sailors to cast Anchor near Cape May, and eight of them took the Boat by force and went ashore, from whence they have been five Days coming up by Land to this Place, where they found the Ship arriv'd. Those concern'd in taking the Boat are committed to Prison (New Jersey Archives, xi. 300).

It is possible that this account throws some light on a tradition set forth by a writer in the Pennsylvania Magazine, xi. 506, 507.

[1] Boston Evening Transcript, 15 December, 1903, p. 2/5. From her name, Mrs. Hazard was presumably a Sands, a family long connected with Block Island.

[2] These verses were found in a small manuscript volume in the Boston Public Library. On the inside of the cover are written the words:

Lemuel Clap
His Book
1754

In a different hand is written the following:

I.

Verses made on the death of M^r^ nowell :[1] by rodger clap :[2]

1

When graue and godly men decaye
and turne unto the dust
who pillars were wheir they did live
lay this to harte we must

2

Most graue and worthy pillars sure
of late god have tooke doune
Let us now mourne for they are gone
Who haue bin as our crowne

3

Those golden pillars which were first
plast doune this land with in
by god himselfe sure for our good,
of late remou'd have bin

4

graue wintrup[3] he is gone from us
who noble was in fame
and dodlow[4] to that worthy one
who was much like the same

This book was the account & memorandum book of Elder Saml Clap, the oldest child of Capt. Roger Clap

Eben Clapp Jr

On the first page it is stated that "Samuel Clap: (the sone of Rogar Clap) was borne. the. 11. of octobar: (1634.);" and on the second page is the following entry:

my father. Capt Roger Clap aged 82 years died the. 2: febary: 1690. or. 91.

[1] Increase Nowell, long the Secretary of the Colony, came to this country in 1630, and died 1 November, 1655 (Savage, Genealogical Dictionary, iii. 295; Wyman's Genealogies and Estates of Charlestown, ii. 710).

[2] Born in England in 1609, Roger Clap came to this country in 1630, settled at Dorchester, was made Captain of the Castle at Boston in 1665, and died 2 February, 1690–91. The Memoirs of Capt. Roger Clap, written by himself, were published by Prince in 1731, and have since been reprinted several times. Savage (Genealogical Dictionary, i. 390) erroneously gives the date of Capt. Clap's death as 2 February, 1692.

[3] Governor Winthrop died 26 March, 1649.

[4] Presumably Governor Thomas Dudley, who died 31 July, 1653.

5

And hibbins[1] to with flint[2] like wise
o Let us not for gett
with Glouer[3] to the last of all
let us remember yet

6

And let us all lament the lost
of him who now is gone
blessed nowell. mongst majestrats
he all ways have bin one.

7

These twenty flue years which ar past
A justis he have bin
in all causes desir'd that truth
most clearly might be seen

8

He was a man sound in the truth
sincear one did loue him
he was sincear the saints of god
his loue was great to them

9

He dearly lou'd the word of god
and prechars of the same
wheir leckturs weir the caus great was
if he not thither came

10

He redy was to spend him selfe
for god and 's peoples good
if erar did at all spring up
for truth he euar stood

---

[1] William Hibbins of Boston died 23 July, 1654 (Savage, Genealogical Dictionary, ii. 409).

[2] Thomas Flint of Concord died 8 November, 1653 (Savage, Genealogical Dictionary, ii. 174). He was a leading citizen of Concord, a Representative and an Assistant.

[3] John Glover of Dorchester died in 1654 (Savage, Genealogical Dictionary, ii. 261).

11

The lost of such a man as this
we haue cause to lament
such strocks as theese ar sure from him
who cals us to repent

12

The plantars ould that hethar came
to settell in this place
the best that first were planted here
do drop a way a pace

13

The lost of such as now are gone
in court it ould appeare
had not the lord made a supply
of those that do him feare

14

O Let us pray to god for those
who majestrats yet bee
the gracious presens of our god
in court o let us see

15

Yee fathers graue and worthy sirs
with us that do remaine
Unite as one in harte and tongue
it will be all our gaine

16

Up hold the truth as you have done
gainst those that shall oppose
and crush all sin and so we shall
in harts still with you cloose

17

This blessed saint that now is gone
he is at peace and rest
whilst we are wrastling heare be lowe
he happy is and blest

18

The soule of blessed nowell now
is fil'd with glory bright
and sees the face of his sweet christ
Oh that's a blessed sight

19

O blessed Lord prepare us all
who thine eleckt on's bee
and take us lord unto thy selfe
thy blessed face to see

20

Then shall wee hallilugah sing
where plesures euer bee
our harts desire we have when that
our souls are fil'd with thee

II.

Upon the death of our honourable Gouernour John Endicot esq.r who departed this Life on the 15 of the (1 m°) (1665) and now resteth with the lord.

When god doth take our pillars downe
which have been strong and bold
our priuiledge and gouernment
sincerely to uphold

Is it not then a noice from god
to all and euery one
returne to god, consider well
the euills we have done

When god doth take the counsellor
and judge from us away
repent and turne unto the lord
that others giue he may

If god should now depart from us
as justly we may feare
noe and alase. our misery
sad will it be then heere

This worthy that is gone from us
how famous hath he been
still to uphold our gouernment
in cambridge once was seen

When some did striue to hinder much
the worke we were aboute
most zealously he did then for
election cry out

And did preuaile through gods rich grace
the worke was sweetly done
then did the hearts of saints rejoyce
when they the field had won

An ancient majistrate was he,
the first sure that was heere
a man of zeale and courage too
as allways did appeare

He did not feare the face of man
nor daunted would he be
he feared the everliuing god
and punnish sinne would he

He was our gouernor: he had
a graue and goodly face
a man of worth and godlines
most fit for such a place

This worthy man is gone from us
that was of such renowne
hee's now with god and christ aboue
and hath receiued his crowne

O happy man in happines
for ever must he bee
he still beholds the face of christ
that's happines to see

So shall it be one day with all
that god doe glorify
that hold fast truth, and hate sin's shall
be lifted up on high

But sure the way to be aduanct
is in heart to be low
and to reforme without delay
all sin that we doe know

Newengland sinnes doe cry aloud
and witnes to our face
we are declin'd: there are sprung up
some of a wicked race

These doe corrupt, and will still more
lest majistrates step in
and elders too: with gods sharp sword
to hew down euery sinne

And others too: all that feare god
reprouing one another
most louingly to win: lest god
us punnish all together

And let us all look up to god
that he would bless us still
providing us a gouernor
according to his will

A man of courage fearing god
yet humble meek and low
a man that loue's this gouernment
on him blessings will flow

And on the churches all through out
they would rejoyce and sing
Yea, praise the lord for his rich grace
and honour would the king

Who hath appointed us to choose
our gouernors yearly
a priuiledge sure of great worth
that's to be prized high

If god doe help us in our choice
that we doe all agree
this yeare to put men in their place
then happy people wee

If all our honourable pillars
that are in magistry
unite as one to saue the whole
then churches shall not dy

This is our hope, this is our prayer
that euen so it bee
that god may stay, and not depart
then blest forever wee

III.

Upon the death of Eldar withington[1] who departed this Life the 2 of the 12 m° (1666) and now resteth with the lord.

When Eldars graue and rulars bee
from us remou'd a way
god cals: repent and turn lest hee
should send an euell day:

Such eldars as rull well: god doth
appoynt them honner dubble
we shall prouoke the lord if by
our sins we do them trouble

Alas how have we greu'd them all
who haue our rullars bin
by trutlesnes[2] and ways of sin
O let us mourn now then

And say to god o parden us
and spare thou yet the rest
of our deare eldars that remaine
let them and us be blest

And do thou lord of thy rich grace
a man for us prepare
with gifts and parts: to rule thy house
in christ let him have share.

[1] Henry Withington of Dorchester (Savage, Genealogical Dictionary, iv. 618; Records of the First Church at Dorchester, 1891, p. 9; Boston Record Commissioners' Reports, xxi. 27).

[2] This word is obscure.

What tho we haue such enimise
Yet we shall sure preuaile
by faith in christ. for he haue crusht
theire head: so they shall quaile

Then let us now both church and toune
our resolution tacke
to cleue to god and fly from sin
and christ our captin make

O that our youth ould now begin
to thinke who must suckseed
our anchant on's religious
of such theire will be need

For if religion do decaye
god quickly will depart
and judgments great O and alas
will breacke a godly hart

Then yonge on's you must be the men
that must up hold gods truth
the ould on's dy: o come to christ
sarve god now in your youth

Then you 'll be fit for place of rule
or for to be ruled
then god will blese you whilst you liue
and saue your soule when dead

So hath he done the blessed soule
of our deare withington
when saints shall rise to meet the lord
he then sure will be one

Then sons and daftars emmitat
your deare and louing father
in godlynes o com not short
but do exceed him rather

And be as kind unto his deare
for deare she is to god
I mean his deare and louing wife [1]
whilst she have heare abode

[1] In 1662 Henry Withington married, for his second wife, Margaret, the widow of Richard Paul. She died 20 May, 1676.

Then god will bless you and also
you all will haue renowne
walk in his steps and then you shall
also reseve a crowne:

IV.

Mr William Pole[1] his epitaph made by his owne hand who died. the 24. of the 12m^o^: (1674)

Hoe earths Inhabitant: its worth thy stay
to take a dead mans lesson by the way
I was, what now thou art; and thou shalt bee
what I am now: thy self, behold in mee
Death wilbe greuious when thou com'st to dy
the way to ease it, is to learne to dy
sin is the sting of death: there wrings the shooe
dy first to sin, and death no hurt can doe
now goe thy way; but stay: take one more word
thy staff for ought thou know'st, stands next the dore
death is the dore, yea dore of heau'n or hell
be warn'd, be arm'd, beleeue, repent, farewell.

W: P.

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[1] See Savage, Genealogical Dictionary, iii. 455; Boston Record Commissioners' Reports, xxi. 28. A somewhat different version of this epitaph is given by James Blake in his Annals of the Town of Dorchester (pp. 26, 27), written about 1750, where we read:

This year Died Mr. William Pole, of whom ye Records thus Speak. "Mr. William Pole, that sage, Reved. Pious man of God, departed this life Febr. 24th, 1674." He was Clerk of ye Writs & Regester of Births, Deaths & Marriages in Dorchester about 10 years; and often Schoolmaster in Dorchester. Upon his Tomb it is thus written.

The Epitaph of William Pole, which he himself made while he was yet living, in Remembrance of his own Death, and left it to be Engraven on his Tomb, so that being Dead he might warn Posterity.
Or a Resemblance of a Dead man bespeaking ye Reader.

Ho Passenger, 't is worth thy Pains to stay
And take a Dead mans Lesson by ye Way.
I was what now thou art, & thou shalt be
What I am now, what odds 'twixt me & thee!
Now go thy way; but stay, take one word more,
Thy Staff for ought thou know'st Stands next ye Door.
Death is ye Door, ye Door of Heaven or Hell:
Be warn'd, be arm'd, Believe, Repent, Farewell.

He Died Febr. 24th, 1674; Aged 81 years.

The epitaph cut on the gravestone differs from both of the above versions, and gives the date of death as 25 February, 1674 (Annual Report of the Boston Cemetery Department for 1904–1905, p. 230).

Mr. EDES communicated a letter written by Benedict Arnold to Miss Mercy Scollay[1] of Boston, concerning the education of the children of Joseph Warren. The letter is as follows.

Philad^{a} July 15th 1778

Dear Madam,

About three months since I was informed by Doctor Townshend[2] that my late worthy friend General Warren left his affairs unsettled, and that after paying his debts a very small matter if anything would be left for the Education of his Children,[3] who, to my great surprize I find have been entirely neglected by the State — I wrote Dr Townshend, desiring him (if the friends of the children would consent) to take care of the Education of the second Son & youngest daughter, who, I am informed by Mr. Hancock[4] is at present in your charge — As I find that Dr. Townsend has joined the Army, permit me to beg the favour of your continuing your care of the daughter & that you will at present take charge of the Education of the Son — I make no doubt that his Relations will consent to that he should be under your Care —

My intention is to use my Interest with Congress to provide for the

[1] Miss Mercy Scollay was a daughter of John Scollay and a sister of Col. William Scollay. The original of Arnold's letter is owned by Miss Mary A. Bigelow, a daughter of the late Dr. Jacob Bigelow. In 1817 Dr. Bigelow married Mary Scollay, daughter of Col. William Scollay. See Publications of this Society, v. 209 *note*, 210 *note*, 213 *note*; 1 Proceedings of the Massachusetts Historical Society, xvii. 417; Memoir of Henry J. Bigelow (1900), p. 5.

[2] For a notice of David Townsend, who graduated at Harvard College in 1770, see Memorials of the Massachusetts Society of the Cincinnati (1890), pp. 480, 481.

[3] Warren left four children: (i) Elizabeth, who was born in 1765, married Arnold Welles in 1785, and died in 1804; (ii) Joseph, who was born in 1768, graduated at Harvard College in 1786, and died in 1790; (iii) Mary, who married (1) Samuel Lyman of Northampton and (2) Richard E. Newcomb of Greenfield, and died in 1826; and (iv) Richard, who was born about 1772 and died in 1793. For information about these children, see R. Frothingham, Life and Times of J. Warren, pp. 542-546; I. N. Arnold, Life of B. Arnold, pp. 210-220; J. Sparks, Life and Treason of B. Arnold, pp. 126-128; A. H. Everett, Life of J. Warren (Sparks's Library of American Biography, 1856), pp. 93-183; New England Historical and Genealogical Register, xi. 122; E. Warren, Life of J. C. Warren, ii. 56; E. Warren, Life of John Warren, pp. 84-90; F. M. Thompson, History of Greenfield, ii. 1036; Genealogical Memoir of the Newcomb Family, 1874, pp. 309, 310.

[4] John Hancock.

family; If they decline it, I make no doubt of a handsome collection by private subscription — at all events I will provide for them in a manner suitable to their birth & the grateful Sentiments I shall ever feel for the memory of my friend. — I have sent you by Mr. Hancock five hundred Dollars, for the present — I wish you to have Richard cloathed handsomely & sent to the best school in Boston — any expence you are at please to draw on me, for which [you] shall be paid with thanks —

I am Dr Madam
Yr Mo: Hble Serv: —
B. ARNOLD[1] —

Mr. WILLIAM C. LANE exhibited a copy of the 1711 edition of the Rev. Henry More's Enchiridion Ethicum as evidence that it was the work referred to as More's Ethics in an enumeration of the text-books used at Harvard in the first quarter of the eighteenth century, in a former communication to the Society by Mr. Noble.[2] The copy had once been owned by James Cushing of the Class of 1725 and by Edward Jackson of the Class of 1726.

President KITTREDGE quoted an extract from the Literary Diary of Ezra Stiles, showing that More's book was also in use at Yale College during the same period. Under date of 24 June, 1779, President Stiles wrote:

Yesterday I put the Senior Class into President Claps Ethics or Moral Philosophy. It was printed just before his death, and has been sometimes recited by the Classes. Afterwds President Edw[ds] on the Will was recited: this giving Offence was dropped. And thro' the Confusion of Times the Seniors have recited no Ethics for several years. When I was Undergraduate we recited Wollastons Religion &c delineated. When my Father was in Coll. they recited Mori Enchiridion Ethicum.[3]

[1] Part of this letter was printed, but not altogether correctly, by Sparks in his Life and Treason of B. Arnold, p. 127.

[2] Publications, vi. 277.

[3] Literary Diary, ii. 349. President Stiles (Y. C. 1746) was the son of the Rev. Isaac Stiles, who graduated at Yale in 1722. The titles of the books referred to by Stiles are: Clap's Essay on the Nature and Foundation of Moral Virtue and Obligation; being a Short Introduction to the Study of Ethics; for the Use of the Students of Yale-College (1765); Edwards's Careful and Strict

Mr. EDES read extracts from two letters written in 1774 by Silas Deane, giving an amusing description of Roger Sherman.[1]

Enquiry into the modern prevailing Notions of that Freedom of the Will, which is supposed to be essential to Moral Agency, Vertue and Vice, Reward and Punishment, Praise and Blame (1754); and W. Wollaston's Religion of Nature Delineated (1724). One of the compositors who set up the last mentioned work was Franklin.

[1] Collections of the Connecticut Historical Society, ii. 145, 146.

JANUARY MEETING, 1904.

A STATED MEETING of the Society was held at No. 25 Beacon Street, Boston, on Thursday, 26 January, 1904, at three o'clock in the afternoon, the President, GEORGE LYMAN KITTREDGE, LL.D., in the chair.

The Records of the last Stated Meeting were read and approved.

The PRESIDENT announced the death on the twenty-sixth of December, 1903, of HENRY DWIGHT SEDGWICK, a Resident Member.[1]

Mr. CHARLES S. RACKEMANN paid the following tribute to the memory of Mr. Sedgwick.

When Mr. Sedgwick was invited to join this Society he accepted the invitation with evident satisfaction, and he made a point of attending the meetings, especially the annual dinners, whenever he could. His own personal interest in history and biography, no less than his inherited taste for these subjects, qualified him to be an interested and appreciative member of an historical society.

We look at the lineage of a man, not only to see who he is, but in order to determine with relation to his own life whether he has done all that might fairly be expected of him. In the case of our associate, the test will be readily met. It is worth while to consider for a moment his lines of descent. On the paternal side he came straight down from Robert Sedgwick, who settled in Charlestown in 1636, and from John Dwight, who settled in Dedham about 1634.[2] Without dwelling on the intermediate

[1] Mr. Sedgwick died at Rome, Italy, and was buried at Stockbridge, Massachusetts, on the twenty-third of January, 1904.

[2] See Benjamin W. Dwight's History of the Descendants of John Dwight of Dedham, New York, 1874; and Erastus Worthington's History of Dedham, Boston, 1827.

generations, it is to be noticed that his paternal grandfather, Theodore Sedgwick, and his paternal great-grandfather, Joseph Dwight, were especially prominent Massachusetts men. On his mother's side his most distinguished ancestor in American annals was his grandfather, George Richards Minot, whose character and attainments are too well known to need recital here. It may confidently be said of him that had he not been cut off by an untimely death at the age of forty-six, he would have rendered marked service to his State and country, and attained greater fame.

Mr. Sedgwick's father, Henry Dwight Sedgwick, for whom he was named, was the second son of Judge Theodore Sedgwick. All the four sons of Judge Sedgwick were lawyers, and three of them were eminent at the bar, while the youngest son, Charles, was Clerk of Courts in Berkshire for thirty-five years. Henry, who was, like the subject of these remarks, almost invariably known as Harry, was said by Miss Catharine Sedgwick, his sister, to have been possessed of "the clearest and most powerful intellect I have ever intimately known." In another place Miss Sedgwick says:

> My brother Harry was, I think, intellectually superior to any of us. He had a wider horizon, more mental action, and I think he was the only one of us who had the element of greatness. . . . He had that absence of mind and fixidity of thought so dangerous where the tendencies are to what the Germans call subjectivity. Never was there a more loving, generous disposition than his, nor tenderer domestic affections.[1]

He was especially interested in reforms of the law, and is said to have prepared the first formal and comprehensive scheme for such reforms which appeared in New York, and upon which the codification ultimately adopted by that State was to a large extent based. He became absolutely absorbed in the cause of the Greeks when they were struggling for national existence, and carried on extensive and most important litigation in their interest in 1826. He broke down from overwork, and died a comparatively young man while his son was yet a child.[2]

[1] Life and Letters of Miss Sedgwick, p. 52.

[2] It was by his advice that William Cullen Bryant moved to New York City, and began there his remarkable career. (Miss Sedgwick's Life and Letters,

Mrs. Sedgwick, the mother of our associate, was Jane Minot, a woman of very remarkable character, of unusual sweetness and fortitude, who bore the trials of her husband's illness and early death without showing the least trace of bitterness or change in her disposition. She survived many years, was a universal favorite in Stockbridge, and was looked upon by the rest of the family as one of their wisest counsellors.

From such forbears, then, and from the town of Stockbridge, came our associate. He was educated at Harvard College, where he graduated in 1843, and for which he was prepared by the Rev. Samuel Parker Parker. His class contained a large number of men who became famous, including a President of the College, Thomas Hill. He afterwards studied law at the Harvard Law School, and in New York in the office of his cousin Theodore. He was admitted to the bar at Rochester, New York, in 1846, after which he travelled for a year in Europe. Then he settled down in the City of New York, and was for four years associated with the same cousin. In 1851 he took up practice with James S. Storrs. In 1857 he attended the inauguration of President Buchanan at Washington, and was in some way severely poisoned. In consequence of this mishap he lost about a year's time from his profession. He practised in New York City for about forty-five years. He was very diligent and painstaking, very earnest, and had considerable success, though he was not, like his father, at any time connected with such unusual matters as the Greek cases above mentioned. His cases brought him into contests with such leaders as Charles O'Conor, Cutting, and William M. Evarts.

He found time not only for regular professional work, but also for literary labors, being editor of two editions of "Sedgwick on Damages," which was written by his cousin, Theodore Sedgwick, Jr., and which is one of the best known of American law textbooks. He also prepared and issued A Selection of American and English Cases on the Measure of Damages, in 1876. In 1872 he wrote a remarkable address, which was delivered before the Law

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p. 441.) There is an admirable notice of Henry Dwight Sedgwick, the elder, in the Democratic Review for February, 1840, in an article entitled Political Portraits, Theodore Sedgwick, — the latter being the elder brother of Henry.

School of the University of the City of New York, called The Relation and Duty of the Lawyer to the State, which elicited much favorable comment and proved that he, like his father, had very high ideals as to the conduct and duty of lawyers and legislators, and that he felt much eager solicitude about the future government of his country.

While practising in New York City, Mr. Sedgwick resided there during several months each year and entered fully into the social and civic life of the place. He was one of the early members of the Union League Club, of the Century Association, of the Bar Association of the City of New York, and later joined the University Club. He preferred the Century to all others, and was very fond of speaking of the agreeable and distinguished men whom he met there, and of repeating such parts of their many enlivening conversations as were of general interest. Only a few months before his death he invited a number of his Century associates to visit him in Stockbridge, and gave an elaborate entertainment for their pleasure.

While his professional life was spent in New York, he passed his vacations, with the exception of long journeys, in his native town of Stockbridge, which he dearly loved and to whose interests he was always devoted, giving freely of his time and money towards whatever the public good or interest seemed to require. He was interested in every improvement of the town and village, but paid particular attention to, and was president of, the public library, the casino, and the Laurel Hill Association. The last was the parent association from which all village improvement societies in this country have sprung. It takes its name from Laurel Hill, a beautifully wooded, rocky knoll, close to the centre of the village of Stockbridge, which was presented to the public by the Sedgwick family about half a century ago. It has been the custom in later years to have an outdoor meeting at this place in July or August, and to invite some person of distinction to make an address at that time. Mr. Sedgwick's remarks as presiding officer at such times were most charming and satisfactory, full of imagination and apt quotations from the classic or later writers, combined with common sense, and, when the occasion was suitable, with patriotic sentiments of a high order. He was frequently a speaker at the village meetings on Memorial Day. He always spoke, even in short addresses, from carefully prepared notes. His voice, while not pow-

erful, was agreeable, and so skilfully managed as to bring out very clearly the different shades of thought and meaning which his well-chosen words were intended to convey. He spoke with great earnestness, and with such evident conviction that no one who listened to him could fail to be impressed with his sincerity. He had an engaging style of speech, and punctuated his remarks with gestures, moving his hands and arms with rapidity and vigor.

His literary efforts were by no means confined to the law. In college he had been a superior scholar in classical studies, particularly in Greek, and the effect of this proficiency was always noticeable in his speeches and writings. He delivered, in 1866, a beautiful address at the dedication of the Soldiers' Monument in Stockbridge. His earnest convictions and his deep, strong feelings must have been intensified on that occasion by the fact that he made use of it to pay a debt of reverence and homage to the character and actions of his cousin Major William Dwight Sedgwick, who lost his life in his country's service at the battle of Antietam. In 1880 he delivered an essay, The Layman's Demand on the Ministry, at the National Conference of Unitarian Churches at Saratoga. In December, 1895, he gave to this society a very interesting little history of Robert Sedgwick, his distinguished ancestor. This he completed after a visit to the Island of Jamaica, where Sedgwick died while holding the office of Governor, under appointment by Cromwell.[1] But if he wrote much, still more did he read, and he was always abreast of the times in literary matters, while showing a decided preference for the older authors.

Mr. Sedgwick married in 1857 his own cousin, Henrietta Ellery Sedgwick, daughter of Robert Sedgwick and Elizabeth Ellery, and a lineal descendant of William Ellery, one of the signers of the Declaration of Independence. They lived together in great happiness until her death in 1902, after which he was never quite the same. His spirit was unbroken, but lost some of its original freshness, and physical infirmities began to tell upon him. He turned then to his children and his daughters-in-law and grandchildren, with peculiar tenderness, and found in them his great delight and consolation.

He had five children, all of whom survive him, and therefore

[1] Publications, iii. 156–173.

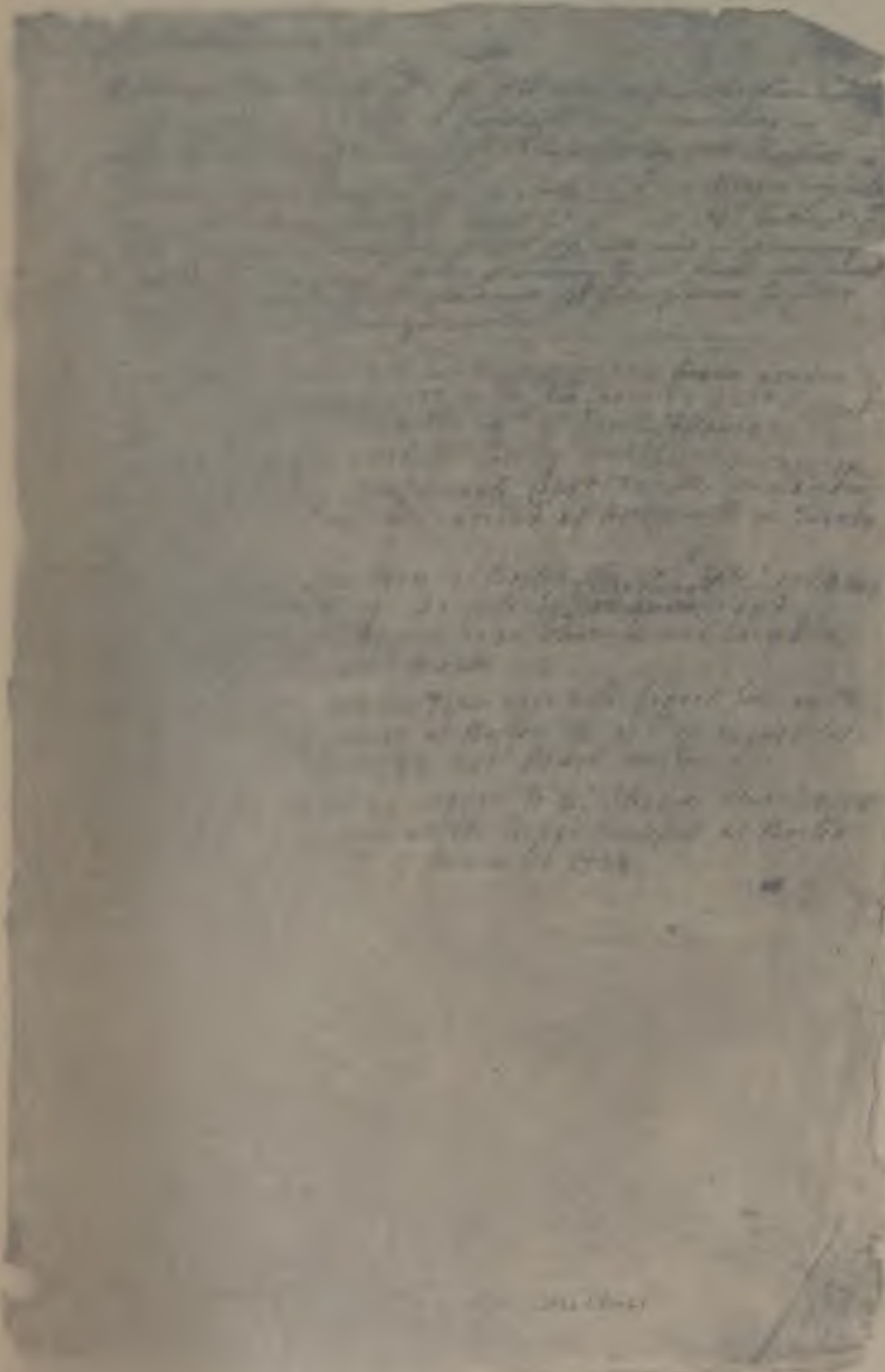
the family circle, with all their cousins and friends, was a large one.

Mr. Sedgwick had remarkable sweetness and simplicity of nature. His affections were strong and deep and true. His interest in all his friends and relations was most marked, and this fact endeared him to them all to an unusual degree. He was possessed of the most delightful humor, and this, coupled with his extreme good-nature and his wit, afforded never-ending opportunities for fun. He enjoyed a joke at his own expense quite as much as anybody could. He was an excellent story-teller, and would often be so carried away by his appreciation of the point of a story that before he reached it he would be almost speechless, because of his own bubbling and infectious laughter.

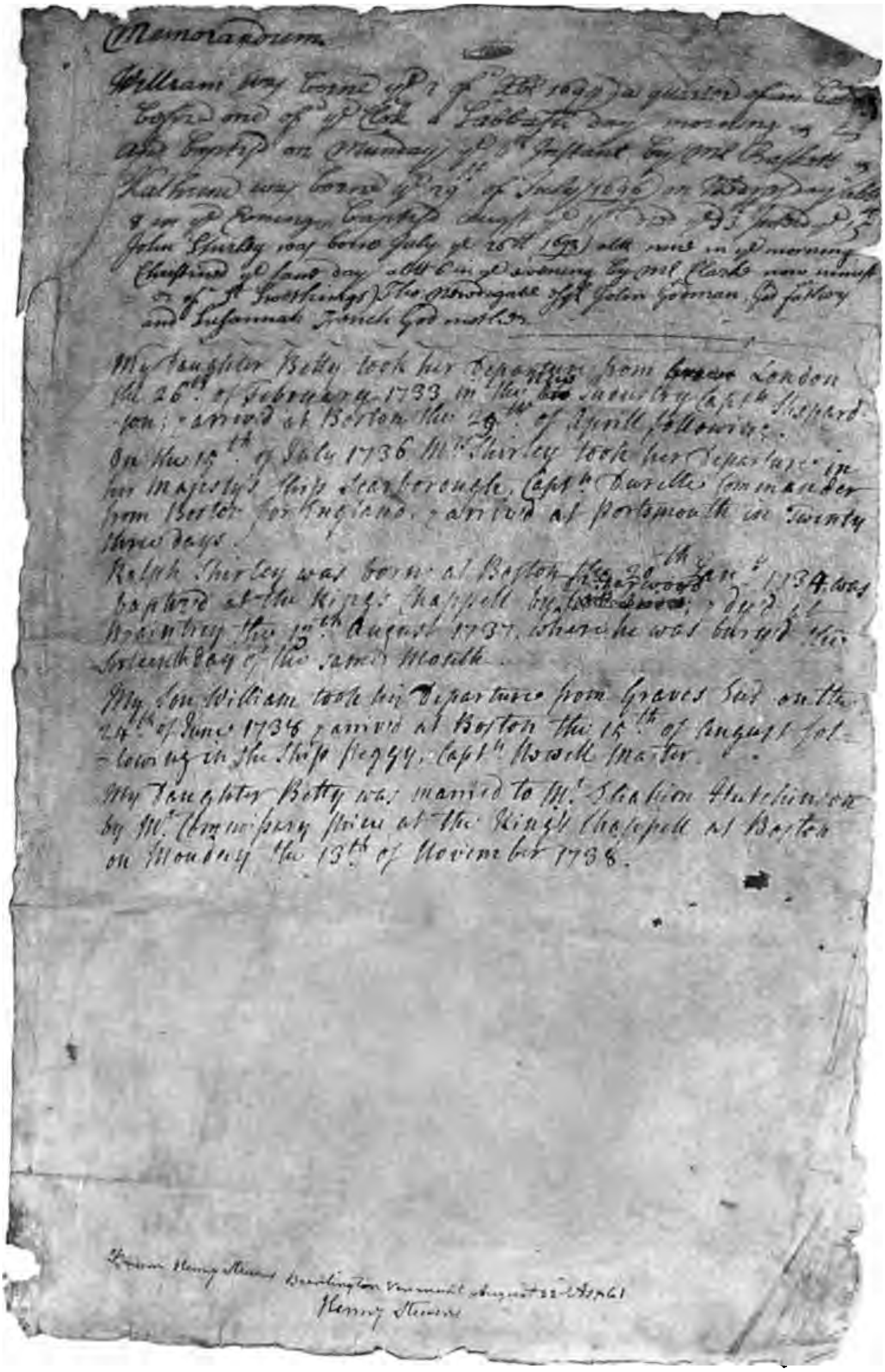
He loved nature at all times and in all her forms. He used to walk and drive and row and spend whole days out of doors. He had many favorite haunts, like Monument Mountain, the Ice Glen, Echo Lake, Hagar's Pond, and a score of others in different places, and was always in great demand as the central figure at all out-door gatherings no less than at those around some hospitable board.

He lived for many years in the house which his father owned; but later bought from the representative of the elder branch of the family the house which Judge Sedgwick built for himself in Stockbridge. This, in 1883, was somewhat amplified and improved by Mr. Sedgwick, although he retained all its most characteristic features and left some of its apartments unchanged. The traditional hospitality of the family suffered no curtailment or neglect in his household, where everything was administered with a generous hand.

Mr. Sedgwick was a rare man. He had a fine mind, well stored with learning, and kept bright through constant use. He had plenty of experience of the world. He was charitable, loyal, loving, kindly, full of faith and courage. He said himself, "I belong to the 'House of Hope.'" He was patriotic and public-spirited, generous and hospitable. He was willing to work as well as to speak or write for the public good. Perhaps the mainspring of his character lay in enthusiasm. This quality he possessed to an unusual degree. Whatever he was engaged in commanded his entire attention and energy for the time. Some part of what in



from the original in the possession of the Boston Athenæum


Memorandum.

William was borne ye 2 of Decr 1694 a quarter after [illegible] before one of ye Clock a Saturday day morning [illegible] and baptized on Munday ye 17th Instant by Mr Bassett [illegible]
Katherine was borne ye 29 of July 1696 on Wednesday [illegible] 8 in ye Evening baptized August ye [illegible]
John Shirley was borne July ye 26th 1698 about nine in ye morning Christened ye same day about 6 in ye evening by Mr Clarke now minister of St Botolphs) The Godfather [illegible] John Gorman God father and Susannah French God mother.

My daughter Betty took her Departure from London the 26th of February 1733 in the Ship Sudbury Captn Shepardson; arrived at Boston the 29th of Aprill following.
On the 15th of July 1736 Mrs Shirley took her Departure in his Majesty's Ship Scarborough, Captn Durell Commander from Boston for England, & arrived at Portsmouth in Twenty three days.
Ralph Shirley was born at Boston the 20th Jany 1734 was baptized at the King's Chappell by Mr Harwood, dyed at Braintrey the 10th August 1737, where he was buryed the sixteenth Day of the same Month.
My Son William took his Departure from Graves End on the 24th of June 1738 & arrived at Boston the 15th of August following in the Ship Peggy, Captn Bowell Master.
My Daughter Betty was married to Mr Eliakim Hutchinson by Mr Commissary Price at the Kings Chappell at Boston on Monday the 13th of November 1738.

From Henry Stevens Burlington Vermont August 22 1861
Henry Stevens

Family Bible Record of Governor William Shirley

Engraved for The Colonial Society of Massachusetts from the original in the possession of the Boston Athenaeum

him was called absent-mindedness must have been merely absorption or concentration of thought brought about by enthusiasm over the occupation or pleasure of the moment.

He was a religious man. He belonged for many years to the church of Dr. Bellows in New York; but later, when he had retired to Stockbridge, he worshipped at St. Paul's church there. He had a chivalric spirit. Indeed, Chaucer might have had him in mind when he wrote, "He was a veray parfit, gentil Knight."

The Rev. EDWARD HALE briefly alluded to an interesting incident in Mr. Sedgwick's life at Stockbridge.

Mr. CHARLES K. BOLTON communicated a Memorandum written on a leaf torn from a Bible belonging to the family of Governor Shirley, now owned by the Boston Athenæum.[1] A portion of the entry is perhaps in the handwriting of William Shirley of Preston, Sussex, England, the father of Governor Shirley, and apparently shows the hitherto unknown date of the Governor's birth. The Memorandum is as follows:

Memorandum. William[2] was borne ye 2 of Xbr [December] 1694 a quarter of an hower before one of ye clock a Sabbath day morning and baptisd on Munday ye 4th Instant[3] by Mr. Baskett.[4]

Kathrine was borne ye 29th of July 1696 on Wednesday abtt 8 in ye Evning, baptisd augst ye 11th died ye 13th interd ye 15th

John Shirley[5] was borne July ye 26th 1698 abtt nine in ye morning Christined ye same day abtt 6 in ye evening by Mr. Clarke[6] now

[1] It was given by Henry Stevens 22 August, 1861.

[2] Presumably William Shirley, Governor of Massachusetts.

[3] The second of December, 1694, was Sunday. As the fourth of February, 1694–95, fell on a Monday, it may be inferred that this entry was written during that month.

[4] William Basset (1644–1695) was presented by the Salters' Company to the Rectory of St. Swithin's in London in July, 1683. He was a graduate of Magdalen College, Oxford, and the author of several books. See the Dictionary of National Biography, iii. 386.

[5] John Shirley, brother of the Governor, died in infancy. See Stemmata Shirleiana, p. 305.

[6] The Rev. John Clark was the successor of the Rev. William Basset as Rector of St. Swithin's.

minester of St Swethings Thos: Newdigate esqr. John Godman [1] God fathers and Susannah French God mother.[2]

My Daughter Betty [3] took her Departure from London the 26th of February 1733 in the New Industry Capt Shepardson; & arriv'd at Boston the 29th of Aprill following.

On the 15th of July 1736 Mrs Shirley [4] took her Departure in His Majesty's Ship Scarborough,[5] Capt. Durelle, Commander from Boston for England, & arriv'd at Portsmouth in Twenty three days.

Ralph Shirley was born at Boston 20th Janr 1734, was baptis'd at the King's Chappell by Haywood [6] & dy'd at Braintrey the 13th August 1737, where he was bury'd the sixteenth day of the same month.

My Son William [7] took his Departure from Graves End on the 24th of June 1738 & arriv'd at Boston the 15th of August following in the Ship Peggy, Captn Nowell Master.

My Daughter Betty was married to Mr Eliakim Hutchinson [8] by Mr Commissery Price [9] at the King's Chappell at Boston on Monday the 13th of November 1738.

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[1] Perhaps John Godman of Ote Hall, Sussex, whose daughter Elizabeth married William Shirley, the father of Governor Shirley. See Burke's Landed Gentry (1871), i.514; Stemmata Shirleiana, p. 319.

[2] To this point the Memorandum may be in the handwriting of William Shirley, the father of Governor Shirley.

[3] From this point the handwriting appears to be that of Governor Shirley. Elizabeth or Betty Shirley married Eliakim Hutchinson.

[4] The first wife of Governor Shirley was Frances, daughter of Francis Barker of London. See Foote, Annals of King's Chapel, ii. 129–133, 142, 225, 226.

[5] The following is taken from the Boston Evening-Post of Monday, 12 July, 1736, No. 48:

His Majesty's Ship Scarborough, Capt. Durell Commander, will sail for Great Britain with the first fair Wind. Madam Cosby and her Family, with several other Persons who go Passengers, went on board on Saturday last.

Madam Cosby was the widow of Governor William Cosby of New York, who had recently died.

[6] The Rev. Thomas Harwood of King's Chapel.

[7] William Shirley, baptized 3 October, 1721, was Secretary to Braddock and was killed in 1755. Besides the children mentioned in the Memorandum, Governor Shirley had one son and four daughters: Sir Thomas; Judith; Frances, the wife of William Bollan; Harriet, the wife of Robert Temple; and Maria Catharine, the wife of John Erving.

[8] Eliakim Hutchinson (H. C. 1730).

[9] The Rev. Roger Price, Rector of King's Chapel.

Mr. BOLTON also read a letter written by Franklin 12 April, 1750, and called attention to its homely characteristic philosophy.[1] The full text of the letter is as follows:

Honoured Mother, PHILAD. April 12, 1750.

We received your kind Letter of the 2d Instant, and are glad to hear you still enjoy such a Measure of Health, notwithstanding your great Age. We read your Writing very easily, I never met with a Word in your Letters but what I could readily understand; for tho' the Hand is not always the best, the Sense makes everything plain. —

My Leg, which you enquire after, is now quite well. I still keep those Servants, but the Man not in my own House: I have hired him out to the Man that takes care of my Dutch Printing Office, who agrees to keep him in Victuals & Clothes, & to pay me a Dollar a Week for his Work. His Wife since that Affair behaves exceeding well: But we conclude to sell them both the first good Opportunity; for we do not like Negro Servants. We got again about half what we lost.

As to your Grandchildren, Will.[2] is now 19 Years of Age, a tall proper Youth, & much of a Beau. He acquired a Habit of Idleness on the Expedition, but begins of late to apply himself to Business, and I hope will become an industrious Man. He imagin'd his Father had got enough for him: But I have assur'd him that I intend to spend what little I have my self: if it please God that I live long enough. And as he by no means wants Sense, he can see by my going on that I am like to be as good as my Word.

Sally[3] grows a fine Girl and is extreamly industrious with her Needle, & delights in her Book. She is of a most affectionate Temper, and perfectly Dutiful & obliging, to her Parents & to all. Perhaps I flatter my self too much, but I have Hopes that she will prove an ingenious sensible notable & worthy Woman, like her Aunt Jenney.[4] — She goes now to the Dancing School.

For my own Part, at present I pass my time agreably enough. I enjoy (thro' Mercy) a tolerable Share of Health; I read a great deal,

[1] An imperfect copy of this letter, but undated, is given by Bigelow in his edition of Franklin's Works, ii. 154, 155. The original letter is owned by the Boston Athenæum.

[2] William Franklin, later Governor of New Jersey, was brought up in his father's family, and had been an officer in the Pennsylvania forces raised for an expedition against Canada.

[3] Franklin's daughter Sarah married Richard Bache.

[4] Franklin's sister Jane married Edward Mecom.

ride a little; do a little Business for my self, more for others; retire when I can & go in Company when I please; so the Years roll round, & the last will come; when I would rather have it said, *He lived usefully*, than, *He died rich.*

Cousins Josiah & Sally[1] are well, and I believe will do well, for they are an industrious saving young Couple: But they want a little more Stock to go on smoothly with their Business.

My Love to Brother & Sister Mecom[2] & their Children, and to all my Relations in general. I am,

Your dutiful Son

B. FRANKLIN.

Mr. HENRY H. EDES communicated a letter written 17 February, 1700-01, by the Rev. Dr. Benjamin Colman to the wife of John George of Boston, who had sought his advice as to her scruples about the richness of her fashionable apparel. Mrs. George was Lydia, the daughter of the Rev. Samuel Lee of Bristol. Mr. George died 20 November, 1714, and on 5 July, 1715, his widow became the third wife of Cotton Mather. Mr. Edes called attention to the fact that within six months of his marriage to Mrs. George, Mather had written to Dr. Colman that he had "no manner of prospect of returning unto" the married state, though "I have, no doubt, foolishly enough been ready to fall into this weakness."[3] Judge Sewall describes Mr. George as "a Well-accomplish'd Merchant" who was buried in his own tomb in the Granary Ground 24 November, 1724, "till Madam George have an opportunity to build one." Mr. and Mrs. George joined the Church in Brattle Square 4 February, 1700, when Dr. Colman "first Administered the Sacrament of the Lord's Supper." Mrs. Mather died 22 January, 1733-34. Dr. Colman's letter is as follows:

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[1] The allusion is to Franklin's nephew, Josiah Davenport, and his wife Sarah Billings, who had been recently married in Boston.

[2] Edward and Jane (Franklin) Mecom.

[3] New England Historical and Genealogical Register, v. 60, vi. 20. See Savage, Genealogical Dictionary, ii. 242, iii. 73, 172; Sewall's Diary, i. 148, 149 *notes*, iii. 27, 49, 80; Dictionary of National Biography, xxxii. 378; Records of the Church in Brattle Square, Boston (1902), pp. 5, 95, 102.

BOSTON. FEB. 17. $170\frac{0}{1}$

Madam,

I send you some rude, hasty thoughts about y^e^ scruple or doubt you lately proposed to me. And first of all I would positively determine you in this, that y^e^ life of religion is not immediately concerned in y^e^ exteriour Garb & dress of y^e^ Body: And yet y^e^ corruption & vanity of y^e^ heart may be seen sometimes in ye neglect, sometimes in ye over-curious adorning of them. Y^e^ scripture therefore commends to us a mean between y^se^ two extreams; 1. tim. 2. 9. Let women adorn y^m^ selves (speaking of such ornaments as become women professing Godliness) in modest apparel, wth shamefacedness & sobriety: not wth broidered hair, & gold &c —; ie, not cheifly minding, affecting, or indulging excess in such things. Y^e^ Apostle censures Immodesty in our dress, prescribes decency, dos not require Sordidness. He censures vanity & lightness, commends Gravity: he forbids cost beyond our state & rank in ye world. To ye same sense, is 1. Peter. 3. 3, 4, 5, ‖ and thus are you to understand Isaiah 3. 16. &c. Y^e^ prophet reproaches ye gross excess of vanity, pride & wantoness; & it is plain their ornaments were made fuel to feed & inflame their lusts —.

Yet these very Texts, thô levelled immediatly against an affected vanity of Apparel, do however, give us light as to that Medium we should observe in our attire. The scripture allows sober Ornaments. There are sober fashions, wch religious people generally conform to; And th[is] lies between two extreams, both which seem to affect singularity. In ye defect err those, who place religion in affected plainess & these morossly judge all that wear more buttons, than they allow themselves. In ye excess err ye lustful, haughty, worldly, mind, who careless of y^r^ soul, deck only y^r^ body for some vile or mean end, to entice others to sin, or to outvye them for show —.

But what are sober *ornaments?* I answer, such as suit 1. our age. 2. our estate. 3. our time, & 4. a religious disposition. as to ye two first our Age & Estate, ye customs of ye sober part of ye world may direct us. As to ye two last our time & frame of soul, it must be left to our own conscience & experience to determine it.

Their is an Age, a state, a season for ornament. Jer. 2. 32. Can a maid forget her ornaments, or a bride her attire? No, tis not fitting they should. But y^t^ is to be regulated by our estate or degree in ye world. We are not to affect nor outvye ye rank above us; but maintain our own we may; not disabling our selves for other works of necessity & charity. But no excuse can be made for those nice, curious Ornaments, which consume too much precious time in contriving, procuring

& putting on; & wch when put on we find indispose ye mind for ye duties of devotion & render it light, airy, gadding & fantastick.

And now, Madam, judge by these rules: You do not scruple your Age, in its prime; nor your Estate, God having blessed you with plenty. Indeed you acknowledge, y^{t} heretofore you have spent too much time & thought in this matter; & have too much indulged ye vanity of Vying with others. This is pride, & affords matter of humiliation before God. But this has sensibly abated for ye last years, & praised be God for his grace & mercy herein. Three things remain, 1.) a doubt or scruple whether ye dress you now wear be sin. 2.) you confess y^{t} self unwilling to lay it aside, thô you suffer many checks frō your own mind on ye account of it. and 3.) you do find by experience that ye finer your apparel is, ye less composed you are in God's worship. This, Madam, is your case, if I exactly remember.

Now for my own part I freely profess, I think your dress is suitable to your age, Estate, & ye sober fashion of your degree, birth & Education. Why you should think of changing your apparel I should see no reason, & y^{t} what you wear should discompose you for God's worship is to me unaccountable. But however, there is no disputing matter of fact & your own experience. Wherefore,

The rules that suit your case are these,

First, whatever has been occasion of sin to us is to be watched against so much ye more. Y^{e} greater distance we keep from it for ye future, ye better is it. For this is Enchanted Ground, venture to ye brink & it charms you in again.

Secondly. We may not act agt. a doubting conscience. Have you a doubtful conscience in ye matter of apparel; that is, Is it equally dubious whether you may wear such apparel or no? Are yo[u in] real suspence whether it be lawful or no? You must not then wear it, for a doubtful conscience binds from action: Rom. 14. 23. w^{t} ever is not of faith is sin.

Much less may we act against a probable conscience; ie, if after serious deliberation it seem to you most likely & probable to be sin. It is unlawful to do good, if we think it evil.

Indeed Divines speak more favourably of a scrup'lous conscience; but then ye account they give of a scruple is this Not only that it is a trouble of mind arising from some little motive, (as for that conscience should be disquieted about such a trifle as bodily Apparel) but not withstanding a general persvasion of ye lawfulness of ye Act, yet ye mind cannot rest. Scruples prevail most in weak minds, they betray want of Judgment for that time; they are ye Off-spring of a strong fancy, & you can give no reason for them. I am loath, Madam, after so miserable

an account of a scruple, to say that yours may be One. Yet I will presume to put it to you —, Are you not generally persvaded in your own mind, that ye apparel you wear is lawful? If not, surely you would not have worn it against your real persvasion of its unlawfulness so long. And if you are generally satisfyed in its lawfulness, your fears of ye contrary at some particular times may be but scruple, for such is a fear wch we can give no reason for. If you cannot say you really doubt you do but scruple, & if you do but scruple that ought not to hinder you from acting: you should chide your self for it.

Thirdly. It is an ill symptom when we find our selves unwilling & averse to forbear what we really doubt & think to be sin: Y^e^ same cannot be said of what we only scruple. Therefore ask your self (for here ye Hinge is) if you do not really & generally think it lawful to wear fashionable Dresses? I am persvaded you only scruple at some sett times, what you generally apprehend to be Innocent. And in y^t^ case one of these two things will be proper; either set your self resolutely to resist y^se^ scruples; or if you cant' overcome 'em then do not act contrary to them for that particular time they are in power over you; but at other times (if it be but ye next day) when ye mind is free from them, we may allow our selves more liberty; provided this liberty do not cause ye scruple to return again with more violence. Could we be certain y^t^ we do but scruple, it would be best wholly to resist, & never gratifye so troublesome a humour; for otherwise we shall incur ye charge of Inconstancy, & y^t^ will be imputed to a weak mind, or a weak faith.

Fourthly & lastly, whatever cumbers, diverts or indisposes ye soul for ye worship of God, should at such times be laid aside. Every hindrance is to be avoided. But do you not think a plain dress will help the mind in worship? Verily I fear you would think ye more of it your self, it would draw ye eyes of others I beleive; & as you judge your self now, so you would soon censure others for their finery; & where will ye advantage of it then be.

I have this to add over & above, You have been educated in ye wearing rich apparel; Mr George chuses you should continue it, it is not offensive nor greivous to sober Christians: It is not good to indulge scruples too much, for they will grow upon you apace to your great discomfort; & you are to fear lest this or any such-like scruple prove but a temptation to take conscience off in judging us for some greater matter.

And now after all, Madam, I am at a loss —, I dare not determine positively —, but I beleive your fear is your Infirmity, more than your dress your sin; & that you have not so much real doubt as scruple in this matter; And so this is my Advice: 1.) Divert your fear & thoughts

to weightyer objects. Think, what have I nothing worse than my Garb to trouble my self about Let me look within & see how my soul is arrayed? Our outward dress is like ye annise & cummin, to ye Spirit of Religion: to ye Weightyer matters of ye law, Judgment, mercy & faith. 2.) Fly to God by prayer & fasting. Y^t ye illusions of Satan, or our weak minds may not destroy our peace —. Learn ye Psalmists prayer, *Ps. 139* Search me, O God &c — 'T is great pity ye souls peace should be Interrupted or ye mind busyed by trifles — A scrup'lous mind chases butterflies —, but ye same fears & care & zeal spent in meditation, prayer & exercises of repentance would make strange dispatch heavenward. I doubt not, Madam, but you are bound thither, & I hope pretty forward in your Journey, don't stay to pick up pebbles in your way: No matter what our travelling Garb is: ye finest now is course & dull to what you expect above, & little to be valued when they are so soon to be changed for Robes of light & glory. I am, Madam, Your most obliged, sincere & faithful Servt —, in Christ

BENJ^A COLMAN.

[*Endorsed*]
Dr Colman to a Lady on
Religious scruples, 1700–1.

The Rev. HENRY A. PARKER read an extract from the Calendar of State Papers relating to a Memorial from the Customer of London concerning "passes and passengers out of the kingdom."[1] The Memorial was drawn up in 1636.[2]

Mr. JOHN NOBLE made the following communication:

The document now presented, which appears among the Early Suffolk Court Files, is a copy of a Will made in 1681 and recorded in the Middlesex Registry of Probate.[3] The Will is that of Edward Jackson of Cambridge Village (now Newton). Various considerations give it an interest: the document taken by itself; the

[1] Calendar of State Papers, Colonial Series, 1574–1660, p. 261.

[2] See the Calendar of State Papers, Domestic Series, 1635, p. 286; Calendar of State Papers, Domestic Series, 1635–1636, p. 175.

[3] The will was printed in The Edward Jackson Family of Newton, Massachusetts, compiled by F. F. Starr and J. J. Goodwin and privately printed in a limited edition at Hartford, Connecticut, in 1895. As, however, this book, not having been published, is not easily procurable, and as there have been many inquiries in regard to the will, it seems justifiable to print it in full in our Transactions.

character of the man who wrote it, and his standing and position in his own town and in the Colony; his connection with the whole subsequent life and history of Massachusetts and of Boston even especially, continuing down to the present day, through the long and illustrious line of his descendants, in all the learned professions, in mercantile and manufacturing lines of business, in the development of public enterprises and interests, in the encouragement of science and the arts, in civic and social life, and in the remarkable roll of names, eminent and well known, that through direct descent or by affinity claim connection with the testator.

The Will follows:

To all People to whom these Presents shall come, Edward Jackson Senr[1] of Cambridge Village in the County of Midd^{x} in the Jurisdiction

[1] Christopher Jackson of London had two sons, John Jackson (baptized 6 June, 1602) and Edward Jackson (baptized 3 February, 1604–05), who emigrated to this country. John Jackson was the first permanent settler of Cambridge Village (now Newton), where he was in 1639, while Edward Jackson came over in 1643. Edward Jackson was a leading citizen, holding various official positions of honor and trust, always active in public affairs, and foremost in all movements affecting the interests of the town. After a long and useful life, he died 17 July, 1681.

Edward Jackson was twice married. By his first wife, Frances, he had the following children: (i) Israel; (ii) Margaret; (iii) Hannah, who married John Ward; (iv) Rebecca, who married Thomas Prentice; (v) Caleb; (vi) Joseph; (vii) Frances;[1] (viii) Jonathan, who married Elizabeth Baker; (ix) Sebas, who married Sarah Baker. On 14 March, 1648–49, Edward Jackson married (2) Elizabeth (Newgate) Oliver, the widow of John Oliver (H. C. 1645) and the daughter of John Newgate (or Newdigate) of Boston. By her he had the following children: (i) Sarah, who married the Rev. Nehemiah Hobart; (ii) Edward; (iii) Lydia, who married Joseph Fuller; (iv) Elizabeth, who married (1) John Prentice and (2) Jonas Bond; (v) Hannah, who married Nathaniel Wilson; (vi) Ruth.

The will of Edward Jackson shows the large number of his grandchildren living in 1681, and over forty of his descendants are said to have served in the Revolutionary War. The Civil War showed brilliantly that the fighting spirit and the love of country still remained in his later descendants. Collaterally, too, through his older brother John, the Jackson blood asserted itself, as his

[1] The Cambridge records state that "ffrances Jackson daughter of Edward died" 5 October, 1648; but there is no record of such a daughter, and possibly "daughter" is the clerk's error for "wife."

of the Massa^{ts} in New England sendeth Greeting. Know Ye that I the said Edward Jackson being infirm of Body but of disposing Judgement and memory do make this my last Will and Testament as followeth hereby Revoking and Disannulling all former Wills Either Verbal or Written, by Me made att any Time heretofore. I do Commit my Soul unto the Father of all mercys and into the Hands of my Lord Jesus Christ my Dear Redeemer and all sufficient Saviour; And to the Blessed Spirit of Grace to behold Glory forevermore. And this my Body and House of Clay to the Dust Untill that Day of Resurrection when Body and Soul shall be United again. And as for that Outward Estate that the Lord hath Committed to my Trust to give him Account of, I do in this Manner and form following dispose thereof.

[I] do give and bequeath to my Loving and Dear Wife Elizabeth One [silver] Bowl, One Guilded silver Cup, One Guilded Silver Salt [which were] given unto her by her honoured Father Mr John [Newgate:[1] also her] Virginals and one Cubard. And my Will is [that she shall] have and Enjoy all that part of her Estate which came to Her by the Sail of her Farm att Pulling Point,[2] as also what Money and Plate she hath by Her or Debts Due to Her by Bills Bonds Mortgages or any other way for Money lent by Her to any of Her Children or to any Other Person Whomsoever all which shall be att her own Pleasure to Dispose of, and

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grandniece was the mother of Col. Ephraim Williams, the founder of Williams College, and of his brother Dr. Thomas Williams, both of whom took part in the Old French War.

The genealogies in these notes are taken from The Edward Jackson Family of Newton, Massachusetts, from F. Jackson's History of Newton, from Paige's History of Cambridge, and from Savage's Genealogical Dictionary; to all of which the reader is referred for full particulars.

[1] John Newgate was born in England and died in Boston in 1665. His will is printed in the New England Historical and Genealogical Register, xiii. 333–335.

[2] In 1634 W. Wood wrote:

> Called *Pullin-point*, because that is the usuall Channell Boats used to passe thorow into the Bay; and the Tyde being very strong, they are constrayned to goe ashore and hale their Boates by the sealing, or roades, whereupon it is called *Pullin-point* (New England's Prospect, 1865, p. 45).

The name was subsequently changed to Point Shirley in honor of Governor Shirley. It is now in the town of Winthrop. See Shurtleff, Topographical and Historical Description of Boston, p. 437; Memorial History of Boston, ii. 61; New England Historical and Genealogical Register, xiii. 111; Boston News-Letter, 13 September, 1753; Manual of the General Court.

no Person to make Claim to any Part thereof. I Do give to Her my said Wife her Heirs and assigns forever twelve acres of Land out of my Farm as it is now layed out and bounded. Also I do give to my Wife and to my Son Edward Jackson [1] to have and to Injoy my Dwelling House with all out housing thereunto Appertaining with the Lands on the North Side of the House to the River being forty Acres more or less with the Lands and the Orchard on the South Side of the highway before the House being about seventy Acres More or Less with my Meadow commonly called Bushes Meadow, of which house Lands and Meadow my Wife shall Enjoy the One half during her natural Life And after the Decease of my said Wife the Whole shall be to my Son Edward and his Heirs for Ever But if my Wife Shall Change her Condition by Marriage my Son Edward Shall thereupon Enjoy the whole as abovesaid provided He shall pay to his Honoured Mother the Sum of five Pounds per Annum During her Natural Life. Also I do give unto my Wife and Son Edward to Each a like Share all my Corn & Stock both of Neat kine, Horses, Sheep and Swine all my Household Goods Wearing Apparrell and a Debt of ten Pounds in Money due to me from John Fuller Senr for Land by me to him Sold. And Moreover to my Son Edward I give my Carts and Ploughs and all manner of Tools and Implements to Me belonging I Give Him my Silver Hatband the three Martyr Books and Turkish History. And my Will is that my Wife and Son Edward shall out of that Estate, I have given them pay Unto my Daughter Ruth Jackson twenty Pounds in Money and thirty Pounds in Goods And also ten Pounds more in Money being a Legacy given Her by Her Honoured Grandfather Mr John Newgate.

I Do give and bequeath unto my Son Jonathan Jackson [2] his Heirs

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[1] Edward Jackson, son of the testator, was born 15 December, 1652, and married (1) Grace ——, by whom he had one son who died in infancy, and (2) Abigail Wilson, by whom he had the following children: (i) Elizabeth, who married Capt. Thomas Prentice, grandson of Capt. Thomas Prentice the Trooper; (ii) Abigail, who apparently died young; (iii) Hannah, who married Joshua Loring of Roxbury, father of Commodore Loring of the British Navy; (iv) Samuel; (v) Alice; (vi) Edward; (vii) Abigail, who married Daniel Robbins.

[2] Jonathan Jackson, son of the testator, was born in England, settled in Boston, and died 28 August, 1693. By his wife Elizabeth Baker, he had the following children: (i) Elizabeth; (ii) Mary; (iii) Jonathan, born 28 December, 1672; (iv) Edward; (v) Sarah.

Jonathan Jackson, son of Jonathan and Elizabeth (Baker) Jackson, was born 28 December, 1672, and died in 1736. By his wife Mary, daughter of Jabez Salter, he had the following children: (i) Jonathan, born 28 April, 1701;

[and] assigns for Ever One Hundred and Sixty Acres of Land Out [of my farm] as it is now laid out and Bounded, He shall not [sell the whole] nor any Part thereof without the Advice and [consent of my] Executors and my two Sons in Law John [Ward [1] and Thomas] Prentice [2] Or the Major Part of them. I give Him my Seal Ring, one Silver Porringer One guilded Silver Spoon which together with more than an Hundred and Seventy Pounds the Greatest Part in Money by Him already Received and what I shall hereafter mention in this my Will, I do Judge a Sufficient Portion for Him. I do give and bequeath to my Son Sebys Jackson [3] his Heirs and Assigns for Ever that my House in which He at

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(ii) Mary; (iii) Jonathan, born 14 June, 1704; (iv) Elizabeth; (v) Edward, born 3 January, 1706–07; (vi) Edward, born 26 February, 1707–08; (vii) Jabez.

Edward Jackson, son of Jonathan and Mary (Salter) Jackson, was born 26 February, 1707–08, graduated at Harvard College in 1726, and died in 1757. By his wife Dorothy Quincy, the "Dorothy Q." of Dr. Holmes, he had two children: (i) Jonathan, born 14 June, 1743; (ii) Mary, who married Oliver Wendell. Oliver and Mary (Jackson) Wendell had a daughter Sarah, who married the Rev. Abiel Holmes and so became the mother of Dr. Oliver Wendell Holmes.

Jonathan Jackson, son of Edward and Dorothy (Quincy) Jackson, was born 14 June, 1743, graduated at Harvard College in 1761, and died in 1810. By his wife Hannah, daughter of Patrick Tracy, he had the following children: (i) Robert; (ii) Henry; (iii) Charles, born 31 May, 1775, graduated at Harvard College in 1775, became Justice of the Supreme Judicial Court of Massachusetts, and died in 1855; (iv) Hannah, who married Francis Cabot Lowell; (v) James, born 3 October, 1777, graduated at Harvard College in 1796, became the distinguished Professor and Doctor, and died in 1867; (vi) Sarah; (vii) Patrick Tracy, born 14 August, 1780, became a noted merchant in Boston, and died in 1847; (viii) Harriet; (ix) Mary, who married Henry Lee.

Of three sons of Jonathan and Hannah (Tracy) Jackson, it has been said, that "Judge Charles Jackson, Dr. James Jackson, and Mr. Patrick Tracy Jackson, . . . occupied as large and as high a position in their respective professions and in the esteem of their neighbors as any three men who ever lived in Boston" (Memorial History of Boston, iv. 155 *note*).

[1] John Ward, who married Hannah, the daughter of Edward and Frances Jackson, was a son of William Ward of Sudbury. He settled in Cambridge Village, where he was prominent, and died 1 July, 1704. His wife Hannah died 24 April, 1704.

[2] Thomas Prentice married Edward Jackson's daughter Rebecca. See F. Jackson, History of Newton, pp. 392, 393; Paige, History of Cambridge, p. 629; Binney, History and Genealogy of the Prentice or Prentiss Family in New England (1883), pp. 249, 250.

[3] Sebas Jackson, born in England or perhaps on the passage to this country,

present Dwelleth with an Hundred and fifty Acres of Land thereunto adjoyning as it is already laid out and bounded. I do give Him two guilded silver Spoons.

I do give and Confirm unto my two Sons in Law John Ward [1] and Thomas Prentice [2] their Heirs and Assigns for Ever One Parcel of Land which is bounded by the Land of Thomas Hammond [3] On the East the Land of Zachary Hicks [4] on the South the Land of John Clark [5] on the West the Land of Capt Prentice on the North

I do give to my Daughter Hannah Ward, One Gold Ring with this Motto *Gods Intent, None can prevent* also two guilded Silver Spoons and Some of my Linnen if my Dear Wife shall se cause.

I Do give and confirm Unto my Son in Law Thomas Prentice His Heirs and Assigns for Ever One Hundred Acres of Land near the Meadow commonly called Bauld Pate Meadow [6] and if there be not so much in that Tract then it is my Will he shall have a Quarter of that Meadow called Bauld Pate Meadow as it is laid out bounded by Jonathan Hides [7] on the South and the Meadow of Vincent Druce [8] on the North.

I Give to my Daughter Rebecca Prentice One Gold Ring with this Motto *Memento Mori* and two guilded Silver Spoons and as much Linnen as my Wife shall Judge meet to bestow on Her.

I Do give and Confirm unto my Son in Law Nehemiah Hobart [9] His

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married Sarah, daughter of Thomas Baker of Roxbury, and died 6 December, 1690. His children were: (i) Edward, born 12 September, 1672; (ii) Sebas;[1] (iii) John; (iv) Sarah, who married Jonathan Draper; (v) Elizabeth, who married (1) Caleb Grant, and (2) John Taylor; (vi) John; (vii) Jonathan; (viii) Mary; (ix) Joseph.

[1] See p. 251 *note*, above.

[2] See p. 251 *note*, above.

[3] Thomas Hammond, an early settler in Hingham, later removed to Cambridge Village.

[4] This was probably Zechariah Hicks of Cambridge, referred to in a former communication to this Society (Publications, iii. 451; and see Paige, History of Cambridge, p. 580).

[5] John Clark was born in Watertown in 1641, then lived in Muddy River (now Brookline), and was in Cambridge Village as early as 1681.

[6] For this and many other localities named in the will, see the map in Jackson's History of Newton.

[7] Jonathan Hyde was born in 1626 and came to Cambridge Village in 1647.

[8] Vincent Druce, an early inhabitant of Hingham, removed to Cambridge Village.

[9] The Rev. Nehemiah Hobart, who married Edward Jackson's daughter

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[1] There is some doubt about this child.

Heirs and Assigns for Ever twenty and five acres of Land as it is now laid out Near to his House and five Acres more as it is now bounded adjoyning to the Land of my Son Seabyes which said five Acres I hereby give him my said Son in Law Liberty to make Sale of: I do also give Him one fifth part of my Long Marsh at the Pines as it is already laid out to Him as also a fifth part of my Upland to the said Marsh adjoyning And twenty five [Acres] of Land being the one half of a Parcell of my Land near [to the land] of Elder Thomas Wiswel Either at the East or West [end of the s^{d}] Tract of Land as He shall make his Choice.

[I do give and] Confirm unto my Son in Law Joseph Fuller[1] his Heirs and Assigns for Ever One fifth Part of my Long Marsh att the Pines as it is already laid out as also a fifth part of my Upland to the said Marsh adjoyning, and twenty three Acres of Land out of my Farm to Him already laid out to which it is my Will to add One Acre more provided He shall allow a High Way over his Land in Some Convenient Place at his Discretion Either open or with Gates for the familys of John Fuller Senior[2] & Lieutenant Isaac Williams.[3]

I Do give and Confirm to my Son in Law John Prentice[4] his Heirs and Assigns for Ever One fifth part of my Long Marsh att the Pines as it is to him already Laid out as also one fifth part of my Upland to the said Marsh adjoyning; And a Parcel of Meadow Containing four Acres more or Less Southward from the Meadow which I sold to Thomas Greenwood.[5]

Sarah, was born at Hingham 21 November, 1648, graduated at Harvard College in 1667, for forty years preached at Cambridge Village, and died 25 August, 1725.

[1] Joseph Fuller of Newton married Edward Jackson's daughter Lydia, and died in 1740.

[2] John Fuller, Sr., an early settler of Cambridge Village, was the father of Joseph Fuller, who married Edward Jackson's daughter Lydia.

[3] Capt. Isaac Williams, a son of Robert Williams of Roxbury, removed to Cambridge Village about 1660. He married Martha, daughter of William Park, and was the father of Ephraim Williams, who was the father of Col. Ephraim Williams (the founder of Williams College) and of Dr. Thomas Williams.

[4] John Prentice, son of Capt. Thomas Prentice the Trooper, was born in 1655, married Edward Jackson's daughter Elizabeth, and died 4 March, 1688–89.

[5] Thomas Greenwood, an early settler, came into Cambridge Village about 1667, held various offices, and died 1 September, 1693. He married Hannah, daughter of John Ward and granddaughter of Edward Jackson.

I do Give and Confirm unto my Son in Law Nathaniel Wilson[1] his Heirs and Assigns for Ever One fifth part of my long Marsh at the Pines as it is already laid out as also One fifth Part of my Upland to the said Marsh adjoyning.

I do Give to my Daughter Ruth Jackson besides what I have already herein Exprest One fifth part of my Long Marsh at the Pines as it is already laid out as also One fifth Part of my Upland to the Said Marsh adjoyning. And twenty Acres of Land out of my Farm betwixt the Land of my Son Jonathan and the Land of my Son in Law Joseph Fuller as it is to Her already laid out.

I Do Give to my Son Edward Jackson and to my Son in Law John Ward my five Volumes of Purchas[1] History to be for their Use betwixt them during both their Natural Lives the Longest Liver shall Enjoy the whole paying fifty Shillings to the Heirs, Executors or Administrators of the Decea's[t].

I do give and Confirm to my Grand Child John Ward Jun[r] his Heirs and Assigns for Ever twenty Acres of Land out of my Farm Eastward from the Land of Joseph Fuller.

I do give to my four Grand Children which bare my Name Edward,[2] forty Acres of my Remote Land, that is to Say to Each One Ten Acres to be laid out together by my Executors and if any of them shall [Decease] Under Age his or their Part so Deceasing shall [be distributed] Equally among the Survivors. Also [my will is that] What Lands I have given to my Children [above named] shall not have power to sell or Alienate any Part thereof (excepting what I have in this my Will Expresly Approved of) Unless Upon a Religious or Moral Account or by Leave obtaind from the Honoured General Court or County Court where Such Lands are. I Do Give to my Grand Children and great Grand Children to the Number of thirty six ten Shillings a piece to buy them Bibles with, which shall be paid to them by my Executors. I do

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[1] In his History of Newton (p. 445), Jackson says that Nathaniel Wilson married Hannah, daughter of John and Elizabeth (Newgate) Oliver. John and Elizabeth (Newgate) Oliver did have a daughter Hannah, but she died in 1653 aged about eleven. Nathaniel Wilson's wife was Hannah, daughter of Edward and Elizabeth (Newgate) Oliver Jackson. She was born in 1660.

[2] The four grandchildren of the testator named Edward were: Edward Jackson, son of Jonathan and Elizabeth (Baker) Jackson; Edward Jackson, son of Sebas and Sarah (Baker) Jackson; Edward Ward, son of John and Hannah (Jackson) Ward; and Edward Prentice, son of John and Elizabeth (Jackson) Prentice.

give to my two Sons in Law Mr John and Thomas Oliver[1] Sir Walter Rawleighs History and Dr Willets Synopsis Papismi.

I Do give to my Daughter in Law Elizabeth Wiswell[2] One Small Silver Beer Cup.

I do give Unto the College att Cambridge Broughtons Chronology[3] in a Manuscript Containing twenty and two Sheets of parchment Requesting the Reverend President and Fellows to promote the printing thereof. Also I do give to the said College a Tract of Land at Billerica[4] being four Hundred acres granted to me by the Town of Cambridge as by their Town Book doth Appear. Also Such Debts as my Executors shall Receive att any Time from any Debtor or Debtors of Mine in Old England My Will is that Such Debts shall be given to the said College.

Also My Will is that when my Son Hobart shall have made his Choice of the Land I have given him near to Elder Thomas Wiswells as aforesaid the part Remaining being about twenty five Acres shall be for the Use of the Ministry in this Village for ever.

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[1] John and Thomas Oliver were the sons of John and Elizabeth (Newgate) Oliver, and hence were the step-sons of Edward Jackson. In the seventeenth and eighteenth centuries, the terms "father-in-law," "mother-in-law," "son-in-law," and "daughter-in-law," frequently meant step-father, step-mother, step-son, and step-daughter, respectively.

[2] Elizabeth Wiswall, the daughter of John and Elizabeth (Newgate) Oliver, married Enoch Wiswall of Dorchester, a son of Elder Thomas Wiswall. She died 31 May, 1712, and her husband 28 November, 1736. See the Publications of this Society, vi. 334 *note*.

[3] In reply to a request for information, our associate Mr. William C. Lane writes me that "Quincy (History of Harvard University, i. 513) mentions it in his list of gifts, but there is no trace of it at the present day, and it was no doubt lost in the fire of 1764. I suppose the author is Hugh Broughton, the distinguished Biblical and Jewish scholar." For a notice of Broughton (1549–1612), see the Dictionary of National Biography, vi. 459–462, where we read:

> Of Broughton's manuscripts the British Museum possesses a quarto volume (Sloane MS. 3088), containing thirty-five pieces, many referring to the new translation of the Bible; and his 'Harmonie of the Bible,' a chronological work (Harl. MS. 1525). Neither of these volumes is in autograph, with the exception of a small part of the 'Harmonie.'

[4] Edward Jackson was one of the proprietors of Cambridge, at different times receiving allotments in the division of the common lands, and also a large proprietor in the Billerica lands, a tract of eight thousand acres granted to Cambridge by the General Court, receiving in the allotment of 1652 four hundred acres, the tract given in his will to Harvard College. Quincy says that this land was "never obtained" (History of Harvard University, i. 512).

I Do Bequeath to my Honoured Friend Capt Thomas Prentice[1] One Small Diamond Ring.

I Do give and Dispose of the Remainder of my Farm being somewhat more than an Hundred Acres to my Son Jonathan & Seabys and to my Sons in Law John Ward & Thomas Prentice to Each One that Part which I have already Caused to be laid out to them. And further my Will is that my Son in Law Thomas Prentice shall have and Enjoy my Son Jonathans Share as it is now laid out and Bounded being about thirty Acres Less or [more] provided He shall pay the Sum of Sixty Pounds in Money to [my s^{d} Son] Jonathan or in other Pay att Money Price as they [shall agree] Which Payment being well and truly made the [above named] Thomas Prentice shall have and hold the said parcel of Land to him and his Heirs for Ever.

Also my Will is that my Executors shall make Sale of my Tract of Land at Brush Hill for the procuring of Moneys to pay the above mentioned Legacys to my Grand Children and Great Grand Children and that neither my said Grand Children nor Great Grand-Children Nor any on their Behalf shall Demand the said Legacys of my Executors Untill such Time as Money shall be procured by the Sale of Said Lands.

It is also my Will that so much of my Estate as I have not in this my last Will and Testament particularly and Expresly disposed of whether in Lands or Books or Debts to me Due shall be Divided by my Executors unto Seven of my Children to Each alike Share (my Debts and funeral Charges being first paid out of it) that is to Say to my Son Jonathan Jackson my Son Edward Jackson My Daughters Sarah Hobart Lydia Fuller Elizabeth Prentice Hannah Wilson and Ruth Jackson Only my Will is that if any of my Seven Children last Named shall Depart this Life Before they shall Receive their Portions in this Part of my Estate their Part shall be Equally Distributed among the Survivors Or if any of them shall have no Children att their Decease their Part shall be Equally Divided amongst them that have. And further it is my Will that if any of my Children shall put my Executors to any Trouble by making Claim to my Estate or any Part thereof more than I have in this my Will to them bequeathed that is to say, if they or any on their Behalf shall Unjustly Molest my Heirs or Executors by Law Suits or Arbitrations He or they shall forfeit all their Portions in this my Will to him or them Bequeathed.

I do Constitute Ordain, and Appoint my Executors my Loving Wife

[1] Capt. Thomas Prentice, the noted Trooper, was born in England in 1621 and died 6 July, 1710. See Jackson, History of Newton, pp. 389, 469–475.

Elizabeth my Son Seabys Jackson and my Son Edward Jackson for the full Execution of my Will in all the above mentioned Particulars.

Blessed be the Lord God of Israel [for evermore] Amen Amen

EDWARD JACKSON & a Seal

Signed Sealed this 11th Day of June In the Year of our Lord One thousand six hundred Eighty and One.

In Presence of Us

ABRAHAM JACKSON[1]
JOHN MIRRICKE[2]
JOHN MASON[3]
ISAAC BACON[4]

CAMBRIDGE 26: 6: 81

Attested Upon Oath by Abraham Jackson and John Mirricke before Daniel Gookin Assistant & Tho Dandforth R[r]

A true Copy, as of Record in the Registry of Probate for the County of Middlesex

Attest

SAM[l]: DANFORTH *Reg[r]*[5]

Mr. NOBLE also read a paper on Posy-rings, speaking in substance as follows:

When members of the Society are asked for contributions or communications for a meeting, the objection is frequently put forward that though there are many things about which they could write understandingly and easily, such things would never do for a historical society like this. The objection usually proves effective, but the result is no less unfortunate.

Yet after all, is the objection sound? has such a society only to do with a remote past, — to preserve venerable relics, to unearth forgotten knowledge, to bridge the gap between the then and the

[1] Abraham Jackson (1655–1740) was the son of Edward Jackson's brother John Jackson, and the grandfather of Col. Ephraim Williams, the founder of Williams College.

[2] John Mirick died 11 July, 1706.

[3] John Mason, a tanner, was a Constable and Selectman in Cambridge Village.

[4] Isaac Bacon (1650–1684) was a son of David Bacon.

[5] Suffolk County Court Files, no. 2005.

now? Is it not equally its business to save any and all materials of history, new as well as old; to throw light upon all times; and to have an eye to the questions which posterity may ask, with an interest similar to that with which we interrogate the ways and doings of our forefathers? And where shall the line be drawn, whether as regards time or matter? What is news to-day is history to-morrow.

> When the trite present, which when acted seems
> Time's dullest prose, fades in the land of dreams,

many other results will follow, as well as those which the poet so graphically foresaw.

In the above will, Edward Jackson bequeathed two rings. What have rings to do with history? If one tries to spin a yarn about them, is not the thread too attenuated to hold together? It may be so. Yet in how many ways have rings played their part in the world's history, in how many of its periods — in an unbroken succession — from earliest antiquity down to to-day; and what light through the uses made of them by different peoples, in different ways, and at different times, is thrown upon manners and customs, stages of civilization, events, persons, and all that goes to make up history.

Differing in purposes and ways, their use has been almost universal. It may be doubted whether there has ever been a country or a people without them. They seem not always to have come instinctively or intuitively, for Greece is said to have borrowed them from Asia, though it must have been in a misty antiquity; and Rome is said to have borrowed them from the same quarter whence the Romans once borrowed their wives. Yet the fondness for them of South Sea islanders and of African savages would seem to indicate some innate impulse or want of primitive human nature existing before that stage of development is reached which finds in them an emblem or a symbol or a badge.

As ornaments, they have been worn on nearly every part of the body, — arms, legs, fingers, ankles, feet, toes, neck, nose, and ears; and as symbols, emblems, badges, and indicia of all sorts, their use has been quite as varied, and the purposes and ways of such use regulated by an elaborate code and ritual; and in each use or regulation a bit of history would be found involved. They

marked the various grades and ranks in Rome. Bishops and popes have worn them as badges of ecclesiastical authority; kings and emperors and magistrates, as of temporal power; they have served as signets and even as signatures, when the sword was mightier than the pen; they have accredited messengers and conveyed messages; they have borne their part in espousals, marriages, and funerals.

A ring may speak more articulately than the Pyramids. Dr. Holmes tells us of the ring of Thothmes III., now in the possession of Lord Ashburnham, which proclaims the name of the monarch who wore it, in the height of Egypt's dominion, three thousand years ago, before, as he says, Homer sang, before the Argonauts sailed, before Troy was built, — while though the Pyramids are left, they stand silent and have forgotten the names of their builders.

So rings become in themselves a part of history, like no other piece of jewelry. They have a character and significance all their own, a meaning distinctive, a language variable as the purpose of their use, inseparable from it, and at once recognized.

What a part, too, have they played in language! In the English tongue the word has been borrowed, adapted, incorporated, and extended in connections almost without limit, as the one expressive, distinctive, suggestive, term; and in each new combination may appear some new discovery in science, some new development of life or conditions, some new influences or agencies brought into being; and every one of such uses may have in it a contribution to history. Most agencies are most powerful in combination, and this word is no exception, as it needs in language a yokefellow to give it character and meaning, — or it must have it in thought if not in actual expression.

The term has crept into politics, into the market, into the church, into society, under the opprobrium of the Ring. Science finds a use for it; the arena would be at a loss without it. The adoption of the term increases rather than falls off, as the complexity of modern life calls for new uses and applications. This is but another illustration how language fastens upon available material and fashions it to its uses, till at last the origin may drop out of sight and the obligation be forgotten.

Posy-rings cannot lay claim to a very venerable antiquity and

seem comparatively modern, belonging chiefly to the fifteenth, sixteenth, seventeenth, and eighteenth centuries, though the nineteenth century may not have been wholly without them. They bear some brief, simple inscription, generally of a sentiment sound and sweet, but often, not to say usually, trite. There is one little collection, which happens to be mainly in one strain:

> In thee my choice, I do rejoice;
> May God above Increase our love;
> Not two but one, Till life is gone;
> When this you see, Then think of me;
> Wedlock, 't is said, In Heaven is made;
> Love is Heaven, And Heaven is Love;
> My heart and I, Until I die.

Some have a memorial character, some a didactic, some an admonitory. Of the two mentioned in Edward Jackson's will, the one with the inscription "God's intent None can prevent," bears at once the faith of the Puritan and the philosophy of the Stoic, reaching the same result however distant the starting-points, and not inappropriate to unite on a New Englander. The other with its brief "Memento Mori," prompts the sobering thought never far away from the early settler here, with possibly a reminiscence of the story of the old Egyptian custom, running back into unfathomable antiquity, — shadowing the feast with the thought of the funeral.

Hamlet's question, in its connection, gives an indication of what may have been the character of some of the posy-rings even earlier than the fifteenth century:

> Is this a prologue, or the posy of a ring?

Then there is a posy-ring that lives in actual existence in Shakspere, — Nerissa's ring, —

> A hoop of gold, a paltry ring
> . . . whose posy was
> For all the world like cutler's poetry
> Upon a knife, "Love me, and leave me not."

To revert to Dr. Holmes. He tells us of two rings which have a certain human interest about them, in different ways, one which Thaddeus Mason Harris, Doctor of Divinity in his later days,

found when a youngster clinging to the end of his walking stick as he was trudging along the road in a strait of sore need, "a gold ring of price" with the inscription, "God speed thee, Friend:" a happening somewhat cheering under the circumstances, — an encouragement and an omen.

The ring of the other story is the funeral ring which the little man, "Little Boston," wore upon his finger inseparable from it, whose grandmother's grandmother was hanged by Chief-Justice Sewall[1] for a witch, and as such delivered over to the Devil by Cotton Mather, — a ring with a death's head beneath a bit of glass and the inscription "L.B. Æt. 22" on one side and "Ob. 1692" on the other side. How much New England history is told in that. All the terror and the pathos of the persecution, the apprehension darkening men's lives, the gloom overshadowing the people, the craze, the bloody tragedies, the revulsion, — all that brief, terrible episode, blotting honored names and the fair record of the Province, lives again in the narrow compass of the finger ring.

Mr. FRANCIS BLAKE of Weston was elected a Resident Member.

[1] It need scarcely be pointed out that "Little Boston's" historical knowledge was not always accurate. Sewall did not become Chief-Justice until 1718.

FEBRUARY MEETING, 1904.

A STATED MEETING of the Society was held at No. 25 Beacon Street, Boston, on Thursday, 25 February, 1904, at three o'clock in the afternoon, the President, GEORGE LYMAN KITTREDGE, LL.D., in the chair.

The Records of the last Stated Meeting were read and approved.

The CORRESPONDING SECRETARY reported that a letter had been received from Mr. FRANCIS BLAKE of Weston accepting Resident Membership.

President KITTREDGE remarked upon some investigations he is making of the study of Alchemy in New England, and spoke particularly of George Stirk, or Starkey, of the Harvard Class of 1646.

Mr. JOHN NOBLE read some notes on Washington's three visits to Boston. The first visit, Mr. Noble said, was in February or March, 1756, when Washington came to lay before Governor Shirley, who, on the death of Braddock, had succeeded to the general command of the Colonies, a question of military precedence relating to Fort Cumberland which had arisen between the Governors of Maryland and Virginia.[1] Washington succeeded in his mission; he was handsomely received here, and he had an opportunity of telling Governor Shirley the particulars of the death of his son William Shirley,[2] who was killed at Braddock's defeat. In what imposing array Washington at that time probably presented himself may be guessed at by his order, not long

[1] See Irving, Life of Washington (1855), i. 224–228.

[2] See p. 214 *note* 7, above.

before, to his correspondent in London for an outfit. This order, which gives a glimpse of one side of Washington in his younger days, is as follows:

2 complete livery suits for servants; with a military cloak and all other necessary trimmings for 2 suits more. I would have you choose the livery by our arms, only as the field of the arms is white, I think the clothes had better not be quite so, but nearly like the inclosed. The trimmings and facings of scarlet, and a scarlet waistcoat. If livery lace is not quite disused, I should be glad to have the cloaks laced. I like that fashion best, and two silver-laced hats for the above servants.

1 set of horse furniture, with livery lace, with the Washington crest on the housings, &c. The cloak to be of the same piece and color of the clothes.

3 gold and scarlet sword-knots. 3 blue and silver ditto. 1 fashionable gold-laced hat.[1]

Washington's second visit was in March, 1776, immediately after the evacuation of Boston by the British.[2] It was at this time, too, that he received from Harvard College the second degree of LL.D. conferred by it.[3] Washington's final visit was when he came as President of the United States in October, 1789. The circumstances and conditions of this visit are too well known to dwell upon.[4]

[1] Irving, Life of Washington, i. 227 *note*. See also Memorial History of Boston, ii. 127 *note*.

[2] Between the evacuation of Boston on March seventeenth and April fourth, when he left for New York, Washington was in Boston several times. See W. S. Baker, Itinerary of General Washington, 1775–1783 (1892), pp. 32–36.

[3] See the Publications of this Society, vii. 321–329.

[4] See Boston Record Commissioners' Reports, xxvii. 124, xxxi. 207–213; Massachusetts Magazine (1790), ii. 3; New England Historical and Genealogical Register, viii. 190, 191, xiv. 161–166; Loring, Hundred Boston Orators, pp. 114–116; E. Everett, Mount Vernon Papers, pp. 106–114. Washington's portrait was taken at Portsmouth by Christian Gullager and this eventually came into the possession of the Rev. Dr. Belknap (1 Proceedings of the Massachusetts Historical Society, iii. 309, 310). At this time, also, the portrait of him by Edward Savage, now in Memorial Hall at Harvard College, was taken (W. S. Baker, Engraved Portraits of Washington, pp. 73–77; C. H. Hart, Catalogue of the Engraved Portraits of Washington, p. 101). Washing-

Mr. HENRY H. EDES communicated a letter dated Williamsburg, Virginia, 1 June, 1776, written by John Augustine Washington to his wife. A younger brother of George Washington, John Augustine Washington was born 13 January, 1736, and died early in 1787.[1] He married Hannah Bushrod, a daughter of Colonel John Bushrod of Westmoreland County. At the time of writing the letter, John Augustine Washington was a member of the Virginia Convention which met at Williamsburg on May sixth, 1776.[2] The Declaration of Rights, referred to in the letter, was reported May twenty-seventh and passed June twelfth.[3]

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ton Street, Boston, first received its name 4 July, 1788. (See Record of Streets, 1902, p. 378; Boston Record Commissioners' Reports, xxi. 164, 178, 180, xxvii. 59.

[1] In a letter written to Sir Isaac Heard 2 May, 1792, George Washington said that his brother "died in February, 1787, at his estate on Nomony, in Westmoreland County, and was there buried" (Writings, Sparks's edition, i. 550). February was doubtless a slip for January, as on 10 January, 1787, George Washington wrote a letter of condolence to Bushrod Washington on the death of the latter's father (Washington's Writings, Ford's edition, xi. 107, 108). On 18 May, 1776, John Augustine Washington wrote a letter from Williamsburg to George Washington, to which the latter replied 31 May (Force, American Archives, Fourth Series, vi. 631, 632).

[2] The Proceedings of the Convention of Delegates, held at the Capitol, in the City of Williamsburg, in the Colony of Virginia, on Monday the 6th of May, 1776, were printed at Williamsburg in 1776, again at Richmond in 1816, and once more in Force's American Archives, Fourth Series, vi. 1509–1615. The three delegates from Westmoreland County were Richard Lee, Richard Henry Lee, and John A. Washington. In his elaborate discourse on The Virginia Convention of 1776, written and published in 1855, Hugh B. Grigsby merely mentions Washington by name (p. 189) and says that "John A. Washington was probably the alternate of R. H. Lee" (p. 206).

[3] Grigsby says:

> From the twenty-seventh of May to the eleventh of June, the Declaration of Rights was discussed at intervals in committee of the whole; and on the latter day it was ordered that the declaration with the amendments be fairly transcribed, and read a third time; and the day after, the fifteenth of June, it was passed unanimously (The Virginia Convention of 1776, p. 19).

The "fifteenth" is of course a slip for the twelfth. Under date of 12 June, 1776, is the following:

> The declaration of rights having been fairly transcribed, was read a third time, and passed as follows, *nem. con.* (Proceedings of the Convention of Delegates, 1776, p. 100).

JOHN AUGUSTINE WASHINGTON TO MRS. HANNAH WASHINGTON.

WILLIAMSBG 1 June 1776

MY DEAR HANNAH

I had the pleasure of recieving your two very affectionate letters the one by Jerry, and the other by the way of Fredericksbg yesterday, it gives me great pleasure to hear you are well and our Children.[1] I flattered myself strongly with hopes that I should be able to come up there about this time but we are at present ingaged in framg a declaration of the peoples rights which I am very anxcious about and cannot leave this place till it is finished or posponed, as soon as that is done I propose if possable to come up for a day or two, and at this time flatter myself that I may set out about next Friday or Satuday, if I should be disapointed I hope you will suffer no uneasyness from any apprihensions of my being sick, as you may depend I should inform you, and that I am very uneasy to see you the first oppertunity shall be imbraced

I have no time to write more than one letter undeed I do not know by what oppertunity this is to go — please to tell Mr. Stubbs as soon as the Carpenters are done what was before mentioned, he had better make them set up all the staves into Tobo Hogsheads — it would not be a Miss if they were to get out the wheat as fast as they can without too much [? interference] with other business, and apply some of it mixed with meal for the Negros by way of tryal, but I fear it will not do — I wrote to you some time past to know whether you got, Purdies & Dixon & Hunters papers[2] regularly transmitted by the Westmoreland rider please my dear to let me know by the first oppertunity — with regard to black hairpins there is none for sale nor are the song books to be had, Adjutant Johnston informs me he has a plenty and that he

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[1] John Augustine and Hannah (Bushrod) Washington had several children, among them: (i) Bushrod, (ii) Corbin, who married Hannah, daughter of Richard Henry Lee, (iii) Mildred, who married Thomas Lee, son of Richard Henry Lee, (iv) Jane, who married William Washington, a son of Augustine Washington, the half-brother of John Augustine Washington.

[2] Two newspapers, each called the Virginia Gazette, were then published at Williamsburg, one by Alexander Purdie, the other by John Dixon and William Hunter (Virginia Magazine, ix. 10).

will supply me, but he is out of Town. Remember me to all inquiring Friends and believe me to be Your Most Af: Husband

JOHN AUG: WASHINGTON

N. B. give my love to Billy[1]
and tell him I have not time
to answer his Letter, also my Love to our dear little children

[*Addressed*]
To
Mrs Hannah Washington
of
Liberty Hall[2]
Recommended to the Care of the Honble Mr Carter[3] who is re-quested to forward this Letter } Westmoreland

Mr. EDES also communicated a letter written 13 March, 1778, by Bushrod Washington to his mother. A son of John Augustine and Hannah (Bushrod) Washington, Bushrod Washington was born 5 June, 1762, graduated at William and Mary College in 1778, was appointed by President John Adams in 1798 an Associate Justice of the United States Supreme Court, and died 26 November, 1829.[4] He married Anne Blackburn, a daughter of Colonel Thomas Blackburn of King William County.

BUSHROD WASHINGTON TO MRS. HANNAH WASHINGTON.

FREDERICKSBURG March 13th 1778

HONOUR'D MADAM

The uneasiness I have suffer'd since the reception of yours can scarcely be exprest. Is it possible you can believe I could be so lost

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[1] Doubtless the writer's son-in-law, William Washington.

[2] See p. 118 *note* 3, above.

[3] In 1782 Robert Carter owned two hundred and seventy-eight slaves (Virginia Magazine, x. 230).

[4] For notices of Bushrod Washington, see H. Binney, Bushrod Washington (1858); J. Story, Miscellaneous Writings, pp. 808–811; William and

to every Idea of Gratitude as to forget my duty to the best of parents to whom I owe my being & everything else which has rais'd me above the meanest of my species? I cannot conjecture by what means you could possibly be inform'd of a Report which never had any other foundation than the busy tongues of those who seem to wish for Strife. It has always been my choice since I came to Town rather to expend any small portion of an Evening I had to spare from my Studys amongst the Ladies where I knew my Company was agreable than to run into the common follies of this place & I will be bold to say that I past my time with more innocence & heart felt Satisfaction in that way than many of my acquaintances in pursuit of their wild inclinations. The Lady you refer to was often present & had in common with the rest every testimony of friendship of which they all merited a large portion at my hands; she was my partner at several Balls and other amusement; nor could I conceive that I was in [? any] degree to blame, little thinking that such might be [? the] consequences or that any person could view this in a light to my disadvantage or represent it to You in the manner they have Done: when I was every day under your immediate inspection you never deny'd me the like amusements, & had you been present here I would never have receiv'd the least check for any part of my conduct — But supposing the whole of what has been told you to be true & that I had really felt a more than common friendship for this Young Lady the bare mention of it's being disagreable to you would cause me to desist. Nay was I even arriv'd at that time of Life when I might be suppos'd to be a better Judge for myself no temptation whatever could induce me to act contrary to the happiness & affectionate Councils of Parents I so dearly love & have so much reason to Regard. my whole felicity depend on the continuation of your esteem & by the Kind & benificent assistance of my Creator I shall ever endeavour to deserve it. Let me therefore (Dr Mama) intreat you in the name of that maternal Kindness which I have ever experienc'd from you never to believe that I have or ever will act in any manner contrary to Your happiness or the honour of my Kindred & Relations. Your approbation will always yeld me a satisfaction next to that of my own breast & a mind free from self-reproach: do inform Papa (if the report has come to his Ears) what I have wrote & shall be miserable 'till I hear from you again that I may know you are satisfyed. But what avails what I can possibly Say if you listen to the malicious reports form'd & propagated by some who take every

Mary College Quarterly, iv. 252; Appletons' Cyclopædia of American Biography, vi. 384, 385.

opportunity to injure the innocent & make their characters as Black as their own. I had heard of Capt Washingtons[1] misfortune before Jerry came up & have been very uneasy ever Since 'though I heard he only had three Shot & was recovering which was not so bad as the whole load although I should fear some danger from the Shot that is not extracted; I cannot help being very sorry for the Cap[t] & most sincerly pity My Sister whose condition may be more easily conceiv'd than expresst. We return her most hearty thanks for the apples which are the greatest rarity she could have sent us. the favour we esteem greater that amidst the trouble & confusion of her mind she could think of us & was it not for that should be apt to quarrel with her for allowing so many opportunities to pass unotic'd though she has the same reason to retort but Jerry always stays so sho[r]t a time that I scarcely have time to write to You — We hear from above that uncle Washington[2] is very unwell which has detain'd him so long from going down to be married & perhaps (though very unlikely) has detain'd M[r] Stubbs so long from coming down who I reckon you have expected for a long time — Aunt Washington will be much oblidg'd to you if you have any opportunity to [? go to] Richmond Court House to buy her a dozen Cups & Saucers as she does not stand upon price

I Remain
Honour'd Madam
Your Dutyful Son
BUSHROD WASHINGTON

[*Addressed*]
M[rs] Hannah Washington
of
Bushfield
Westmoreland
By Jerry

Mr. EDES also exhibited a single sheet (13½ by 8½ inches), printed on both sides, one side containing "A New Song," written during the Siege of Boston, the other side containing "The Grand Constitution." The sheet is not dated, but

[1] Probably William Washington, who, as stated in a previous note, married Bushrod Washington's sister Jane.

[2] Probably the writer's uncle, Samuel Washington, who was born 16 November, 1734, died in 1781, and married five times: (1) Jane Champe, (2) Mildred Thornton, (3) Lucy Chapman, (4) Anne Steptoe, and (5) Susannah Perrin, a widow.

obviously, from the title of the second song, it could not have been printed before the autumn of 1787. The two pieces follow:

A New Song:

To the Tune of the *British Grenadier.*

VAIN BRITONS, boast no longer with proud Indignity,
By Land — your conquering Legions — your matchless strength at Sea,
Since We your braver Sons, incens'd, our swords have girded on,
Huzza, Huzza, Huzza, Huzza, for War and *Washington!*

Urg'd on by *North* and Vengeance, these valiant Champions came,
Loud bellowed Tea and Treason! and GEORGE was all on Flame,
Yet sacrilegious as it seems — we Rebels still live on —
And laugh at all your empty Puffs, and so does *Washington!*

Still deaf to mild Intreaties — still blind to England's good,
You have for Thirty Pieces — betray'd your Country's blood;
Like *Æsop's* greedy Cur, you 'll gain a shadow for your bone;
Yet find us fearful Shades indeed, inspir'd by *Washington.*

Mysterious! unexampled! incomprehensible!
The blundering schemes of Britain, their Folly, Pride and Zeal!
Like *Lions* how ye growl, and threat! meer *Asses* have ye shown,
And ye shall share an *Ass's* fate, and drudge for *Washington.*

Your dark, unfathom'd Councils — our weakest heads defeat!
Our Children rout your Armies — our Boats destroy your Fleet,
And to compleat the dire disgrace, coop'd up within a Town,
You live the scorn of all your Host! the slaves of *Washington.*

Great heav'n is this the Nation — whose thund'ring arms were hurl'd
Thro' Europe, Afric, India? whose Navy rul'd the World?
The lustre of your former Deeds — whole ages of Renown —
Lost in a moment — or transfer'd to Us and *Washington!*

Yet think not thirst of Glory — unsheaths our vengeful Swords,
To rend your bands asunder — and cast away your cords —
'T is Heav'n born Freedom fires us all — and strengthens each brave Son,
From him who humbly guides the Plough to godlike *Washington!*

For THIS — O could our wishes — your ancient Rage inspire!
Your armies should be doubled — in number, force and fire!
Then might the glorious Conflict prove, which best deserv'd the boon —
America or *Albion* — a GEORGE or *Washington.*

Fir'd with the great Idea — our Father's shades would rise!
To view with stern Contention, — the Gods desert the skies —
And *Wolfe*, mid hosts of Heroes, superior, bending down —
Cry out, with eager transport — Well done, brave *Washington.*

Should GEORGE, too choice of *Britons* — to foreign Realms apply —
And madly arm half Europe, — yet still we would defy
Turk, Russian, Jew, and Infidel, or all those Pow'rs in one —
While *Hancock* crowns our Senate — our Camp great *Washington.*

Tho' warlike weapons fail'd us — disdaining slavish fears —
To swords we 'd beat our Ploughshares — our pruning hooks to spears —
And rush all desp'rate! on our Foe! nor breathe, till battle won;
Then shout and shout, *America!* and conquering *Washington!*

Proud France should view with Terror — and haughty Spain should fear,
While every warlike Nation — would court Alliance here —
And George, his Minions trembling round, dismounted from his Throne —
Pay Homage to *America* and glorious *Washington.*

Printed and sold at the Bible & Heart[1] *in Cornhill,* Boston.

THE
Grand Constitution:
A new Federal SONG.

To the Tune of — "*Our Freedom we 've won*, &c."

FROM scenes of affliction — COLUMBIA opprest —
Of credit expiring — and commerce distrest,
Of nothing to do — and of nothing to pay —
From such dismal scenes let us hasten away.

Our Freedom we 've won and the Prize let 's maintain,
Our Hearts *are all right,*
Unite, Boys, Unite,
And our EMPIRE *in glory shall ever remain.*

[1] The Bible and Heart was the sign of Thomas and John Fleet, publishers of the Boston Evening Post, printers and booksellers. Their shop stood on the

The *Muses* no longer the cypress shall wear,
For we turn our glad eyes to a prospect more fair:
The *Soldier* return'd to his small cultur'd farm,
Enjoys the reward of his conquering arm,

Our Freedom, &c.

Our trade and our commerce shall reach far and wide,
And riches and honour flow in with each tide,
Kaynschatka and *China* with wonder shall stare,
That the *Federal stripes* shou'd wave gracefully there.

Our Freedom, &c.

With gratitude let us acknowledge the worth,
Of what the *Convention* has call'd into birth,
And the Continent wisely confirm what is done
By *Franklin* the Sage, and by brave *Washington.*

Our Freedom, &c.

The wise *Constitution* let 's truly revere,
It points out the course for our *Empire* to steer,
For Oceans of bliss, do they hoist the broad sail,
And *Peace* is the current, and *Plenty* the gale.

Our Freedom, &c.

With gratitude fill'd — let the great *Commonweal*
Pass round the full glass to *Republican* zeal —
From ruin — their judgment and wisdom well aim'd,
Our *Liberties*, *Laws*, and our *Credit* reclaim'd.

Our Freedom, &c.

Here *Plenty* and *Order*, and *Freedom* shall dwell,
And your *Shayses* [1] and *Dayses* [2] won't dare to rebel —
Independence and culture shall graciously smile,
And the *Husbandman* reap the full fruit of his toil.

Our Freedom, &c.

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northerly corner of Pudding Lane (now Water Street) and Cornhill (now Washington Street), — on the site now covered by the Journal Building.

[1] Daniel Shays, the leader of Shays's Rebellion, 1786–1787.

[2] Luke Day, a leader of the insurgents in Shays's Rebellion. See G. R. Minot, History of the Insurrections in Massachusetts (1788), p. 164.

That these are the blessings *Columbia* knows —
The blessings the *Fed'ral Convention* bestows;
O! then let the *People* confirm what is done
By *Franklin* the Sage, and by brave *Washington.*

Our Freedom we've won, and the prize let's maintain,
By Jove we'll Unite,
Approve and Unite —
And huzza for Convention *again and again.*

Printed and Sold at the *Bible* and *Heart* in *Boston.*

In the absence of Mr. ALBERT MATTHEWS, Mr. THOMAS MINNS read on his behalf the following paper on —

SOME SOBRIQUETS APPLIED TO WASHINGTON.

It need not be urged that the sobriquets, nicknames, and epithets which become attached to persons are often indicative of their characters, of their achievements, and of the estimation in which they are held. Thus, the sobriquet the American Fabius tells us something of the military tactics pursued by Washington during the Revolutionary War. Again, the title the Father of his Country shows the feeling entertained for Washington by his fellow-countrymen. There is, of course, nothing new in these two expressions; but as, so far as I am aware, no attempt has been made to show their history, perhaps it will not be inappropriate to present to-day some notes which I have collected bearing on the subject. These notes have been picked up in casual reading and do not pretend to be exhaustive, but they probably furnish a sufficiently complete account of the early history of the two terms above mentioned.

Among the fragments of the poet Ennius are the following verses:

Vnus homo nobis cunctando restituit rem.
Noenum rumores ponebat ante salutem.
Ergo plusque magisque uiri nunc gloria claret.[1]

[1] Annalium Reliquiae, ix. vii. 313–315, in Vahlen, Ennianae Poesis Reliquiae (1854), p. 47.

The first of these lines was appropriated by Virgil,[1] all three were introduced by Cicero into one of his works,[2] and they appear to have been very popular. It is not without interest for us Americans to note that the earliest allusion to Fabius in English literature which has thus far been pointed out occurs in a book written about New England. In 1637 Thomas Morton remarked:

> Hanniball when hee had to doe with Fabius was kept in awe more by the patience of that one enemy, then by the resolution of the whole army: A well tempered enemy is a terrible enemy to incounter.[3]

In a work printed in 1740, but written certainly as early as 1734, Roger North, alluding to Charles the Second, said:

> It is most certain the King was, at that Time, a *Fabius, cunctando restituit rem.*[4]

In 1733 Swift spoke of "prudent Fabius."[5] Writing 16 October, 1759, Horace Walpole declared:

> You will see in our gazettes that we make a great figure in the East Indies. In short, Mr. Pitt and this little island appear of some consequence even in the map of the world. He is a new sort of Fabius,
>
> Qui verbis restituit rem.[6]

In a letter written to Mrs. Mercy Warren from Philadelphia 25 November, 1775, John Adams said:

> The inactivity of the two armies is not very agreeable to me. Fabius's *cunctando* was wise and brave. But, if I had submitted to it in his situation, it would have been a cruel mortification to me. Zeal, fire, and activity, and enterprise, strike my imagination too much. I am obliged to be constantly on my guard; yet the heat within me will burst forth at times.[7]

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[1] Æneid, vi. 846.

[2] De Officiis, i. 24 (1710), p. 89.

[3] New English Canaan, p. 119. It can scarcely be doubted that allusions to Fabius must frequently have occurred in the writings of the sixteenth and seventeenth centuries.

[4] Examen, iii. vii. § xlvii. p. 537. Quoted in the Stanford Dictionary.

[5] Works (1869), p. 605. Quoted in the Stanford Dictionary, where no example is given between Swift and Macaulay (1855).

[6] Letters (1866), iii. 255.

[7] Works, ix. 369.

On December first, 1776, William Eddis, a Loyalist, wrote:

> The whole of York Island is in the possession of his Majesty's forces. General Howe has, for some time, been attempting to force General Washington to a decisive action, which he has, hitherto, avoided with the penetration of a Fabius.[1]

In the same year there appeared in an English magazine an article signed "A By Stander," in which we read:

> When Hannibal had slain almost half the citizens of Rome, he saw the walls of their city, without possessing it. But America has found her Fabius, before she sought her Cannæ. Delay and defence are proved her system.[2]

It is worth remarking, not only that Washington was known to his countrymen, to the Loyalists, and to the British as Fabius, but also that the adjective Fabian possibly made its first appearance in the English language in connection with Washington.[3] His policy by no means won the approval of all, and soon complaints were heard, and the policy was both attacked and defended. On 28 June, 1777, Alexander Hamilton wrote:

> I know the comments that some people will make on our Fabian conduct. It will be imputed either to cowardice, or to weakness. But the more discerning, I trust, will not find it difficult to conceive, that it proceeds from the truest policy, and is an argument neither of the one nor of the other.[4]

In spite of the guard which John Adams in 1775 declared he kept over himself, the heat within him did indeed burst forth at times, and on 2 September, 1777, he thus freed his mind:

> St. Leger and his party have run away. So will Burgoyne. I wish that Stark had the supreme command in the northern department. I am sick of Fabian systems in all quarters. The officers drink, A long

[1] Letters from America (1792), p. 336.

[2] Remembrancer for the Year 1776 (1777), iv. 170.

[3] In the Oxford Dictionary Dr. Murray's earliest example of Fabian is from Joel Barlow's Columbiad (1809) — where it is also applied to Washington. The extracts in the text show that for a generation the word had been in familiar use in this country.

[4] Works (1886), vii. 503.

and moderate war. My toast is, A short and violent war. They would call me rash, etc., but I know better. I am as cool as any of them, and cooler too, for my mind is not inflamed with fear nor anger, whereas I believe theirs are with both.[1]

On 18 March, 1779, Hamilton, in reply to a request from Miss Livingston, daughter of Governor William Livingston, for a pass through the American lines for some friends, wrote as follows:

But when, instead of availing yourself of so much better titles, you appealed to the cold, general principles of humanity, I confess I felt myself mortified, and determined, by way of revenge, to mortify you in turn. I resolved to show you that all the eloquence of your fine pen could not tempt our Fabius to do wrong; and, avoiding any representation of my own, I put your letter into his hands, and let it speak for itself. . . . I congratulate myself on the success of my scheme; for though there was a harder struggle upon the occasion, between inclination and duty, than it would be for his honour to tell; yet he at last had the courage to determine, that as he could not indulge the ladies with consistency and propriety, he would not run the risk of being charged with a breach of both.[2]

In his celebrated poem of M'Fingal, John Trumbull makes his hero see a vision of which the following is a part:

Behold o'er Tarlton's blustring train,
The Rebels stretch the captive chain!
Afar near Eutaw's fatal springs
Descending Vict'ry spreads her wings!
Thro' all the land in various chace,
We hunt the rainbow of success!
In vain! their Chief superior still
Eludes our force with Fabian skill,
Or swift descending by surprize,
Like Prussia's eagle sweeps the prize.[3]

When the Marquis de Chastellux reached Philadelphia in 1780, after describing calls made on "Madame Beech," by whom he

[1] Familiar Letters of John Adams and his Wife Abigail Adams during the Revolution (1876), pp. 304, 305.

[2] In T. Sedgwick, Jr.'s Memoir of the Life of William Livingston (1833), pp. 325, 326.

[3] M'Fingal, iv. (1782), p. 74.

meant Franklin's daughter Mrs. Bache, and on Robert Morris, he goes on to say:

Dans la crainte que les délices de Capoue ne me fissent oublier les campagnes d'*Annibal* & de *Fabius*, je voulus monter à cheval, dès le 2 décembre, pour aller voir le champ de bataille de *Germantown*.[1]

In his Eulogium on Major-General Greene, delivered 4 July, 1789, Hamilton said:

The sword having been appealed to, at Lexington, as the arbiter of the controversy between Great Britain and America, Greene, shortly after, marched, at the head of a regiment, to join the American forces at Cambridge; determined to abide the awful decision. He was not long there before the discerning eye of the American Fabius marked him out as the object of his confidence.[2]

In his notorious Letter to George Washington of 30 July, 1796, Thomas Paine wrote:

Nothing was done in the campaigns of 1778, 1779, 1780, in the part where General Washington commanded, except the taking of Stony Point by General Wayne. The Southern States in the mean time were over-run by the enemy. They were afterwards recovered by General Greene, who had in a very great measure created the army that accomplished that recovery. In all this Washington had no share. The Fabian system of war, followed by him, began now to unfold itself with all its evils; but what is Fabian war without Fabian means to support it?[3]

In the Preface to a work published in 1797 and dedicated to Washington himself, the Rev. Jonathan Boucher, who at one time had acted as tutor of Mrs. Washington's son, John Parke Custis, wrote these words:

The pains which the leading men in the Northern Colonies took to engage those of Virginia in particular in their long-meditated project of independence, could be unknown to no man on the spot, who was duly careful to watch all those little incidents on which great events so often turn. Hence, when a Congress was resolved on, Mr. Randolph,

[1] Voyages dans l'Amérique Septentrionale (1786), i. 170.
[2] Works, vii. 27.
[3] Writings (1805), iii. 249.

a Virginian, was pitched on to be it's first President: and hence too, in regular succession, the nomination of Mr. Washington, who was also of Virginia, to the command of the American Army. Both Tacitus and Pliny (indisposed as the former of these great writers certainly was to censure popular encroachments with any severity) bestow high praises on Rufus Virginius for having refused the empire when it was offered to him; and for having declared, *he would not take up arms, even against a tyrant, till he had legal authority* so to do; that is to say, till the Senate ordered him. . . . Rufus Virginius, however, was not that Roman, whom the Virginian Cincinnatus, or (as his countrymen are more proud to call him) the American Fabius, may be supposed to have made his model.[1]

Having thus traced the history of Fabius as applied to Washington during the last twenty-four years of his life, let us now turn to the designation of the Father of his Country. It is of course needless to point out that as a title of respect, the word "father" has been employed among the English for centuries. The Fathers of the Church were alluded to in the fourteenth century. In 1591 Shakspere made a serving-man speak of the Duke of Gloucester, uncle of Henry VI., as "a Father of the Common-weale."[2] In 1700 Dryden called Chaucer "the father of English poetry." In 1705 Thomas Hearne referred to Sir Robert Clayton, Alderman and Lord Mayor of London, as "the Father of y^t^ City."[3]

Turning to this country, it is possible to present some fresh citations. About 1684 we read of "The Venerable remains of M^r^. Roger Williams, the Father of Providence, the Founder of the Colony, and of Liberty of Conscience."[4] On 2 December, 1731, Governor Belcher thus addressed the Massachusetts House of Representatives:

As I abhor every thing that carries the Face of blind Obedience, so do I the least appearance of want of Duty to a PRINCE who upon the highest Reason may challenge to be stiled, THE FATHER OF HIS

[1] View of the Causes and Consequences of the American Revolution, p. xxxv *note*.

[2] 1 Henry VI., iii. i. 98.

[3] These examples are taken from that storehouse of knowledge, the Oxford Dictionary. It may be noted that *pater patriae* was applied to Marius, to Cicero, to Trajan, and others. See Harper's Latin Dictionary, under *pater*, D.

[4] Early Records of Providence, viii. 17.

COUNTRY. Thus happy is the whole *English* World, IN HIS PRESENT MAJESTY: I therefore hope, we shall all endeavour to make this People happy under the present Reign and Establishment.[1]

In 1764 Governor Hutchinson wrote that "In the beginning of 1649 (March) died Mr. Winthrop, the father of the country." [2]

That Belcher should have called George the Second the Father of his Country, is not surprising. It is not without interest to note, however, that shortly before the outbreak of the American Revolution not dissimilar language was applied to George the Third. In a Petition to the King for the removal of Governor Bernard, drawn up 30 June, 1768, the members of the Massachusetts House of Representatives thus expressed themselves:

On the whole, Sir, We will Consider his most Sacred Majesty under God, as our King, our best Protector and common Father; and shall ever bear him true and faithful Allegiance.[3]

It is seen, then, that as a title of respect Father was well known to the American colonists.[4] It was to be expected, therefore, that

[1] Massachusetts House Journals, p. 2.

[2] History of Massachusetts, i. 151.

[3] Massachusetts House Journals, p. 93. Everything depends on the point of view. After the outbreak of the Revolution, George the Third was depicted by the American patriots as a fiend incarnate who delighted in their massacre. Not in these colors did the same monarch appear in the eyes of a certain maid of honor to Queen Caroline. The contrast presented by the letters of John Adams and the diary of Fanny Burney, is amusing. It may be added that in 1787 Sir George Bromley dedicated his Collection of Original Royal Letters —

To
the father of his people,
the pattern of virtuous conduct,
and
the protector
of
liberal arts,
GEORGE THE THIRD,
King of Great Britain, &c.

[4] Mention may be made of the employment of the word Father among the Indians. Apparently the English colonists borrowed this from the French of Canada. In 1684 the Governor of Canada having made complaints to Governor Dongan of New York of the conduct of the Senecas, the latter on

in due time the designation of the Father of his Country would be applied to Washington. The circumstances under which the sobriquet was, so far as I am aware, first employed, are of interest. The Annapolis Convention of 1786 having proved abortive, it was

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August fifth of that year gave an answer to Governor Dongan in which they said:

When the Governor of Canada speaks to us of the Chain, he calls us *Children*, and saith, *I am your Father, you must hold fast the Chain, and I will do the same. I will protect you as a Father doth his Children.* Is this Protection, to speak thus with his Lips, and at the same time to knock us on the head, by assisting our Enemies with Ammunition?

He always says, *I am your Father, and you are my Children*, and yet he is angry with his Children for taking these goods. (In C. Colden's History of the Five Indian Nations, 1727, p. 75.)

Referring to events that occurred in 1761, Alexander Henry said:

The Indians now gravely smoked their pipes, while I inwardly endured the tortures of suspense. — At length, the pipes being finished, as well as a long pause, by which they were succeeded, Minavavana, taking a few strings of wampum in his hand, began the following speech:

"Englishmen, it is to you that I speak, and I demand your attention!

"Englishmen, you know that the French king is our father. He promised to be such; and we, in return, promised to be his children. . . .

"Englishmen, we are informed, that our father, the king of France, is old and infirm; and that being fatigued, with making war upon your nation, he is fallen asleep. During his sleep, you have taken advantage of him, and possessed yourselves of Canada. But, his nap is almost at an end. I think I hear him already stirring, and inquiring for his children, the Indians; — and, when he does awake, what will become of you? He will destroy you utterly!" (Travels and Adventures in Canada, 1809, pp. 42, 43.)

Under date of 29 April, 1764, we read:

This Afternoon eight Huron Chiefs & two or three young Men came to speak to the Commandant. . . . Another Chief got up with a string of Wampum and said:

. . . Brother, when you first came here you told us you had conquer'd our Father and sent him over the Great Lake, & that all that belong'd to him was yours. (In F. B. Hough's Diary of the Siege of Detroit, 1860, p. 90.)

In 1766 William Smith wrote:

THERE is something remarkable in the appellation they gave to the English on this occasion, calling them Fathers instead of Brethren.

LAWAUGHQUA, the Shawanese speaker, delivered himself in the following terms. —

"FATHERS, for so we will call you henceforward; listen to what we are going to say to you.

"IT gave us great pleasure yesterday to be called the children of the great King of England; and convinces us your intentions towards us are upright, as we know a Father will be tender of his children, and they are more ready to obey him than a Brother. Therefore we hope our Father will now take better care of his Children, than has heretofore been done. . . .

"HERE is a belt with the figure of our Father the King of Great-Britain at one end, and the Chief of our nation at the other. It represents them holding the chain of friendship; and we hope neither side will slip their hands from it, so long as the Sun

a grave question with Washington whether he ought to attend the Philadelphia Convention of 1787. Writing to David Humphreys 26 December, 1786, he said:

That the federal government is nearly if not quite at a stand, none will deny. The first question then is, shall it be annihilated or supported? If the latter, the proposed convention is an object of the first magnitude, and should be sustained by all the friends of the present constitution.[1]

In March, 1787, he again wrote to several persons asking their opinions as to whether he should attend. Among these was Henry Knox, and on 19 March, 1787, Knox wrote a reply in which he said:

As you have thought proper, my dear Sir, to request my opinion respecting your attendance at the convention, I shall give it with the utmost sincerity and frankness. I imagine that your own satisfaction, or chagrin, and that of your friends, will depend entirely on the result of the convention. For I take it for granted, that, however reluctantly you may acquiesce, you will be constrained to accept of the president's

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and Moon give light." (Historical Account of the Expedition against the Ohio Indians under the Command of Henry Bouquet, pp. 34, 35.)

In a letter dated 19 November, 1779, George Rogers Clark said:

The Treaty was concluded to the satisfaction of both parties: they were much pleased at what they heard, and begged me to favour them the next day with my Compy at a Council of theirs. I accordingly Attended; greatest part of the time spent in Ceremony, they at last told me that they had been meditating on what I had said the day before: that all the Nations would be rejoiced to have me always in their Country as their great Father and Protector. (Campaign in the Illinois, 1869, p. 79.)

On 21 August, 1805, Major Pike wrote:

All the chief men of the village came over to my encampment; where I spoke to them to the following purport:

"That their great father, the president of the United States, wishing to become more intimately acquainted with the situation, wants, &c. of the different nations of the red people, in our newly acquired territory of Louisiana, had ordered the general to send a number of his young warriors, in different directions, to take them by the hand, and make such enquiries as might afford the satisfaction required." (Sources of the Mississippi, 1810, p. 5.)

Thus, as these extracts show, the expression was transferred from the French Governor of Canada to the King of France, from the King of France to the King of Great Britain, and from the King of Great Britain to the President of the United States.

[1] Writings (Ford's edition), xi. 101.

chair. Hence the proceedings of the convention will more immediately be appropriated to you than to any other person. Were the convention to propose only amendments and patchwork to the present defective confederation, your reputation would in a degree suffer. But, were an energetic and judicious system to be proposed with your signature, it would be a circumstance highly honorable to your fame, in the judgment of the present and future ages; and doubly entitle you to the glorious republican epithet, *The Father of your Country.*[1]

The Philadelphia Convention having drawn up our present Constitution, and that having been ratified by the requisite number of States, Washington was elected President in January, 1789, and soon after set out from Mount Vernon for his inauguration at New York. In a Philadelphia newspaper of Tuesday, 21 April, 1789, appeared the following:

Yesterday His Excellency the PRESIDENT OF THE UNITED STATES arrived in this city, about one o'clock, accompanied by the President of the State,[2] the Chief Justice,[3] the Speaker of the Assembly,[4] the Attorney-General,[5] the Honorable Mr. Read,[6] and Secretary Thomson,[7] the two city troops of horse, the country troop, a detachment of artillery, a body of light infantry, and a numerous concourse of citizens on horseback and foot.

His EXCELLENCY rode in front of the procession, on horseback, politely bowing to the spectators who filled the doors, windows and streets while he passed. The bells were rung, and a feu-de-joy was fired as he moved down Market and Second streets, to the City-Tavern.

The joy of our whole city upon this august spectacle, cannot easily be described. Every countenance seemed to say, Long, long live GEORGE WASHINGTON, THE FATHER OF THE PEOPLE![8]

From Philadelphia, where he arrived April twentieth, Washington proceeded the next day to Trenton; but he declined the honor of an escort of the city troop of light horse on the ground that as it rained he was obliged to ride in his carriage, — "for he could not, he said, think of travelling under cover, while they were ex-

[1] Washington's Writings, xi. 123 *note*.
[2] Thomas Mifflin.
[3] Thomas M'Kean.
[4] Richard Peters.
[5] William Bradford, Jr.
[6] George Read.
[7] Charles Thomson.
[8] Pennsylvania Packet, 21 April, 1789, p. 3/1.

posed to the rain on horseback."[1] This conduct elicited the following comment:

> How different is power when derived from its only just source, viz. THE PEOPLE, from that which is derived from conquest, or hereditary succession! The first magistrates of the nations of Europe assume the titles of Gods, and treat their subjects like an inferior race of animals. Our beloved Magistrate delights to shew, upon all occasions, that he is a man — and instead of assuming the pomp of master, acts as if he considered himself the father — the friend — and the servant of the People.[2]

Arrived at New York, Washington was inaugurated President on the thirtieth of April. In an account of the celebration of the following Independence Day, dated New York, 4 July, 1789, we read:

> Our common FATHER and DELIVERER, to whose prudence, wisdom and valour we owe our Peace, Liberty and Safety, now leads and directs in the grand councils of the nation for their preservation. . . . This roused us to action, to deliberation, to decision — and *now* we celebrate an independent Government — an original Constitution! an independent Legislature, at the head of which we THIS DAY celebrate THE FATHER OF HIS COUNTRY — We celebrate WASHINGTON! We celebrate an INDEPENDENT EMPIRE![3]

The American Fabius, the Virginian Cincinnatus, and the Father of his Country were all epithets which, as we have seen, were freely bestowed upon Washington during his lifetime. In conclusion, let me for a moment dwell on a still more honorable and famous expression which was applied to him immediately after his death. The circumstances under which the expression was first employed are well-known, but the exact form of the expression is often inaccurately given. Our associate Mr. John Bartlett, in his invaluable Familiar Quotations,[4] instead of going to the earliest printed sources, has relied on the account given by John Marshall in 1807, and so he and others have been led into error. Washington was seized with his fatal illness on December thirteenth, 1799,

[1] Pennsylvania Packet, 24 April, 1789, p. 3/1.
[2] *Ibid.* p. 3/1.
[3] *Ibid.*, 9 July, 1789, p. 2/3.
[4] Ninth edition, p. 445.

died on the fourteenth, and was buried on the eighteenth. "So short was the illness," writes Marshall, "that, at the seat of government, the intelligence of his death, preceded that of his indisposition."[1] Congress was at the time in session and Marshall was himself a member of the House of Representatives. On December nineteenth Marshall announced to the House the death of Washington and concluded his remarks as follows:

Let us then Mr. Speaker pay the last tribute of respect and affection to our departed friend. Let the grand council of the nation display those sentiments which the nation feels. For this purpose I hold in my hand some resolutions which I take the liberty of offering to the house.[2]

In a note Marshall adds:

These resolutions were prepared by general Lee, who happening not to be in his place when the melancholy intelligence was received and first mentioned in the house, placed them in the hands of the member [Marshall himself] who moved them.[3]

Let us now leave Marshall and turn to the Journal of the House of Representatives, where, under date of 19 December, we read:

The House of Representatives of the United States, having received intelligence of the death of their highly valued citizen GEORGE WASHINGTON, general of the armies of the United States; and sharing the universal grief this distressing event must produce,

Unanimously Resolve,

1. That this House will wait on the President of the United States, in condolence of this national calamity.

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[1] Life of Washington, v. 763.

[2] *Ibid.* v. 765.

[3] *Ibid.* v. 765 *note*. Whether Marshall wrote from rough but inaccurate notes, or whether he trusted entirely to memory, it is impossible to determine; but certain it is that his version of the resolutions is inaccurate. In order that the difference may be made clear, Marshall's account follows:

The resolutions, after a preamble stating the death of general Washington, were in the following terms.

"Resolved, that this house will wait on the president in condolence of this mournful event.

"Resolved, that the speaker's chair be shrouded with black, and that the members and officers of the house wear black during the session.

"Resolved, that a committee, in conjunction with one from the senate, be appointed to consider on the most suitable manner of paying honour to the memory of the MAN, first in war, first in peace, and first in the hearts of his fellow citizens." (*Ibid.* v. 765, 766.)

2. That the Speaker's chair be shrouded with black, and that the members and officers of the House wear mourning, during the session.

3. That a joint committee, of both Houses, be appointed to report measures suitable to the occasion, and expressive of the profound sorrow with which Congress is penetrated on the loss of a citizen, first in war, first in peace, and first in the hearts of his countrymen.

4. That when this House adjourns, it will adjourn until Monday next.[1]

On the twenty-sixth of December Henry Lee delivered before Congress his funeral oration. In this occur the words:

First in war, first in peace, and first in the hearts of his countrymen, he was second to none in the humble and endearing scenes of private life.[2]

Again on behalf of Mr. MATTHEWS, Mr. MINNS read the following remarks:

Samuel Sewall's little pamphlet, The Selling of Joseph, printed 24 June, 1700, was the first published protest against slavery in Massachusetts. In one place, he says:

How horrible is the Uncleanness, Mortality, if not Murder, that the Ships are guilty of that bring great Crouds of these miserable Men, and Women. Methinks, when we are bemoaning the barbarous Usage of our Friends and Kinsfolk in *Africa:* it might not be unseasonable to enquire whether we are not culpable in forcing the *Africans* to become Slaves amongst our selves. And it may be a question whether all the Benefit received by *Negro* Slaves, will balance the Accompt of Cash laid out upon them; and for the Redemption of our own enslaved Friends out of *Africa.*

And again:

I am sure, if some Gentlemen should go down to the *Brewsters* to take the Air, and Fish: And a stronger party from *Hull* should Surprise them, and Sell them for Slaves to a Ship outward bound: they would think themselves unjustly dealt with; both by Sellers and Buyers. And yet 'tis to be feared, we have no other kind of Title to our *Nigers.*[3]

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[1] Journal of the House of Representatives (1800), pp. 44, 45.

[2] Funeral Oration, in Eulogies and Orations on the Life and Death of General George Washington, Boston (1800), p. 17.

[3] 1 Proceedings of the Massachusetts Historical Society for October, 1863, vii. 163, 164. See also the Publications of this Society, i. 85–112.

But though Sewall questions the right to hold men in slavery, he does not distinctly propose the abolition of slavery. In the Boston News-Letter of 10 June, 1706, appeared an article in which the ground was taken that white servants were superior to slaves; but here the question was regarded as purely an economic one, and nothing is said as to the iniquity of slave-holding. The late Dr. George H. Moore, in his Notes on the History of Slavery in Massachusetts, printed the article from the News-Letter,[1] but gave nothing between 1706 and 1733, in which year the Rev. Elihu Coleman printed his Testimony against that Anti-Christian Practice of making Slaves of Men. Even if this gap has since been bridged, no apology is needed for calling attention to another early protest against slavery, especially as it is hidden away in a tract where one would not expect to find it. In 1716 there was printed at Boston a pamphlet entitled, Some Considerations upon the Several Sorts of Banks propos'd as a Medium of Trade. In this will be found the following passage:

> And as to Slaves, as was before demonstrated, they are a great hinderance to the Peopling and Improving the Country: And the Proverb tell us, That *the Receiver is as bad as the Thief;* and *that if there were no Receivers, there would be no Thieves:* If those are true *Proverbs*, then are not we of this Country guilty of that Violence, Treachery and Bloodshed, that is daily made use of to obtain them; we rendering our selves Partakers with them in that Wickedness? (For 'tis not to be supposed, that these do voluntarily abandon themselves to be carried into a Foreign Country, and there to be sold for Slaves) If therefore the Country in stead of many Laws they have made about *Negroes*, should Enact, That twenty Years hence there should be no Slave in the Country, it would hurt no Man, but would greatly Encourage Servants to come, and necessitate their being brought over, to the great Increase and Strengthning the Country.[2]

Here again we meet with the economic argument, but the specific allusion to the abolition of slavery within twenty years is interesting. This pamphlet was recently reprinted by our associate

[1] Notes on the History of Slavery in Massachusetts (1866), pp. 107, 108.

[2] Tracts relating to the Currency of the Massachusetts Bay, edited by Andrew McF. Davis (1902), pp. 178, 180.

Mr. Andrew McFarland Davis. As Mr. Davis says nothing as to its authorship, I suppose that it is unknown.

Mr. ANDREW MCFARLAND DAVIS confirmed Mr. Matthews's surmise concerning the authorship of the tract. Mr. Davis also communicated photographic copies of three newly-discovered printed forms of Writ used in the Land Bank cases, drawn from the Suffolk Court Files.

Mr. WILLIAM C. LANE made the following communication:

The following letters from Nathaniel Walker Appleton to Eliphalet Pearson were found among other papers of Dr. Pearson lately received from his descendants by the Trustees of Phillips Academy, Andover, of which school Dr. Pearson was the first preceptor. Such of the papers as related to Harvard College, with the government of which Dr. Pearson had been closely connected as Professor and Fellow of the Corporation, the Trustees generously transferred to the Library of Harvard College. Among them were included this brief series of letters written by one classmate to another in the years immediately succeeding their graduation, while one was preparing for the practice of medicine, the other for the ministry. They contain many interesting references to College affairs, and they also reflect the stirring events and political passions of the time (1773–1778).

Nathaniel Walker Appleton, the writer of the letters, born in Boston, 14 June, 1755, was the son of Nathaniel Appleton of the Class of 1749, a merchant of Boston, a member of the Committee of Correspondence, and a Commissioner of Loans. His grandfather was the well-known Rev. Dr. Nathaniel Appleton of the Class of 1712, minister of the Church in Cambridge from 1717 till his death in 1784. An uncle John Appleton (born 1739, died 1817) lived in Salem, where Nathaniel W. Appleton studied medicine under the direction of his father's cousin, Dr. Edward Augustus Holyoke, a son of President Edward Holyoke. After remaining three years in Salem with Dr. Holyoke, he moved to Boston, where he died 15 April, 1795. A funeral "Discourse, Delivered at the First Church in Boston, 19th. April, A. D.

1795, the Lord's-Day after the Interment of Nathaniel W. Appleton, M.D.," was published in 1796 by the Rev. John Clarke, who is mentioned several times in the letters which follow.[1]

Eliphalet Pearson, Appleton's correspondent and College friend, was born in Byfield 11 June, 1752, and was educated at Dummer Academy. He entered Harvard College in 1769 and graduated in 1773. In 1773–1774 he was Master of the Grammar School in Andover and was living in the family of his friend Samuel Phillips (later known as Judge Phillips) in Andover. He returned to Cambridge to study for the ministry, but during the College's exile from Cambridge, at the beginning of the Revolutionary War, he was again in Andover with his friends. He became the first preceptor of Phillips Academy, which was opened in April, 1778. After eight years of service, in 1786 he was called to Cambridge as Professor of Hebrew in the College. In 1800 he became a member of the Corporation of Harvard College, and was Acting-President during the interval between the death of President Joseph Willard in 1804 and the election of Samuel Webber in 1806. Becoming more and more dissatisfied with the liberal tendencies of the College, he resigned his professorship and his membership in the Corporation in 1806 and withdrew to Andover.[2] On the establishment of the Theological Seminary in Andover, he was made Professor of Sacred Literature in 1808.

His first wife was Priscilla, a daughter of President Holyoke, born in 1739 and accordingly his senior by thirteen years. She died in Andover, 29 March, 1782, soon after the birth of her daughter, Mary.[3] Dr. Pearson died 12 September, 1826.[4]

[1] Appleton married Sarah Greenleaf 24 May, 1780, and had seven children. After his death, his widow married Joseph Haven of Portsmouth, New Hampshire, and died 2 January, 1838. See W. S. Appleton, Genealogy of the Appleton Family (1874), p. 22; Boston Record Commissioners' Reports, xxiv. 285, xxx. 446.

[2] For a letter written 19 March, 1806, by Samuel Cary, relating to Dr. Pearson's resignation, see the Publications of this Society, iii. 177–179.

[3] The daughter married the Rev. Ephraim Abbot of Greenland, New Hampshire (Sarah L. Bailey, Historical Sketches of Andover, p. 537). Dr. Pearson married for his second wife, in 1785, Sarah Bromfield, daughter of Henry Bromfield.

[4] For a notice of, and allusions to, the Rev. Dr. Pearson, see the Publications of this Society, v. 205–214 and *notes*, vi. 221.

E. Pearson

Engraved for The Colonial Society of Massachusetts
from the original painted in 1816 by Samuel Finley Breese Morse
in the Library of the Andover Theological Seminary

E. Pearson

Engraved for The Colonial Society of Massachusetts
from the original painted in 1818 by Samuel Finley Breese Morse
in the Library of the Andover Theological Seminary

I

CAMBRIDGE Decr. 14th 1773.

DEAR FRIEND

As I had wrote you three or four Letters and received no Answer, I was at a Loss to know what to impute to, but understanding by Mr. Farrington[1] that you had wrote I concluded it had miscarried so thought proper to inform you of it, shall expect immediately a Long Letter from you in Answer to All those I have wrote. Herewith goes your News Paper[2] which I endeavour to send as soon as possible. The unhappy affair concerning the late Pr-s-d-nt remains as yet something in the dark, perhaps Time may discover it.[3] He resigned on 6th Inst & went off to Sherburne the next Day. WE HOPE that the Corporation will make Choice of a Person to fill the vacant Chair who by his exemplary VIRTUE will remove the Blemish which now lays upon the College. There have been some Commotions in the S— C— which are yet not entirely settled.[4] Mr. Gannet is much approved of as Tutor.[5]

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[1] A classmate, Thomas Farrington, of Amesbury.

[2] The Boston Gazette, as is evident from a later reference to the publishers, Edes and Gill, p. 307, below.

[3] All the College records preserve a discreet silence in regard to the reasons for President Samuel Locke's resignation. At the meeting of the Corporation on 7 December, 1773:

Dr. Appleton communicated a Letter from President Locke dated Decr. 1st 1773, signifying his resignation of the Office of President of this College. Voted. that the Revd Dr. Appleton, Professor Winthrop and Mr. Eliot be a Committee to receive and take into their Care the Books Papers and other Things in the President's house, that belong to the College and to receive the Keys as soon as the late President has removed his Family & Effects.

The cause of President Locke's resignation and of the considerate silence generally observed in regard to it, is disclosed in President Stiles's Literary Diary, i. 426.

[4] I am indebted to Mr. Albert Matthews and to the Rev. Dr. Edward Everett Hale for the suggestion that the letters "S. C." stand for the Speaking Club of Harvard College, the predecessor of the Institute of 1770. The records of the Speaking Club, comprising Journal, Laws and Orders, signatures of members, and accounts, are still preserved, almost intact, in the College Library. The

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[5] Caleb Gannett, of the Class of 1763, was Tutor from 1773 to 1780, Fellow from 1778 to 1780, and Steward from 1779 to 1818. He lived in the house that stood just west of the present site of the Harvard Law School. A water-color view of the College made about 1805, now in the College Library, was taken "from the Seat of Caleb Gannett Esq." *Cf.* Publications of this Society, vii. 202.

I Understand you have some thoughts of going to Portsmouth, should be glad to know as to that. Received a Letter ab^{t} 10 Days ago from your Chum Cutler[1] & also one from our Friend Crosby[2] both well and in

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Club was founded in 1770, with Samuel Phillips, President; Joseph Pearse Palmer, Vice-President; and Israel Keith, Secretary — all of the Class of 1771.

Pearson and Appleton were received as members 18 June, 1771, at the close of their Sophomore year. Appleton was elected Secretary in June, 1772, and seems to have so remained while in College. As a resident graduate, he evidently continued to take a lively interest in the Society. The object of the Society was to provide an opportunity for practice in public speaking and declamation. Despite the secrecy which attended the Society at the time, and which would have concealed its very existence, it may be permissible at this late day to quote three orders which were adopted 16 November, 1773, in order to show the serious way in which the work of the Society was taken.

15th. That a Committee consisting of 5 be chosen for the purpose of remarking upon the exhibitions in the Club; and that this Committee shall be chosen 3 Months at least before they begin to act in the Club; and, in order, to qualify themselves for their office, shall study the best treatises upon Elocution; and continue to execute their office 6 Months, unless the Club think fit to remove them for misbehaviour or insufficiency.

16th. That some of the best treatises shall be bought at the expence of the Club, and read thro' in course in the Club by the Members each in his turn (a suitable part being read at each meeting) and that these books be left with the Com^{tee} to be lent to the Members of the Club, as the Committee think proper.

17th. That the Committee be authorised to direct any Member of the Club to read the piece he has just spoke, or any other piece they think proper, that they may have an opportunity of pointing out his faults more particularly, and he of correcting them by repeated trials.

On 28 December, 1801, the name of the Society was changed to "Patriotic Association," in order that the object of the Society's endeavors, which apparently was its sole secret, might not be betrayed by a casual mention of its name. The entry in its record on this occasion is as follows:

Preamble of the revising Committee, recommending an alteration of the name of this Society.

As this Society has become venerable for its antiquity, and respectable for the virtue, merit, and dignity, of its members, from its first institution, it is with the greatest caution and diffidence that we propose any alteration, affecting its consti[tu]tion. But, duly considering the wise design and prudent measures of our predecessors, to preserve the object of this Society an inviolable secret, and being actuated

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[1] Nahum Cutler, the first member of the class to die. His name is starred in the Triennial Catalogue of 1776, but the date of his death is unknown. He is frequently referred to in the following letters. See, in particular, the mention of his death on p. 316, below.

[2] Probably Stephen Crosby of Cambridge, a classmate. He was born 8 August, 1752, according to the Records of the College Faculty, iii. 168.

good Spirits, hope this will find you so. You have doubtless seen the Proceedings of the PEOPLE.[1] We wait the Event with Patience, trust-

by the same benevolent motives, to transmit it unimpaired, as a blessing to posterity, and perceiving the danger, which now threatens it from those who use every possible exertion to make it known, and that its present name, if inadvertently uttered, must betray its most important secret, a secret which deeply [affects] the interest of this Society, and the peace and happiness of its members, we propose, and recommend, that this Society hence forth be denominated the "Patriotic Association."

For additional facts in regard to the history of the Speaking Club, and the other societies afterward incorporated with it, see the account of the Institute of 1770, by Francis Greenwood Peabody, in The Harvard Book (1875), ii. 341, 342, and an earlier brief account in the Harvard Magazine (1864), x. 236–239.

[1] After months of heated discussion and protest stirred up by the duty laid upon tea, the Dartmouth, bringing the first cargo of the "detested plant," had arrived in Boston Harbor on 28 November, 1773. On the following day a public meeting was called in Faneuil Hall which later adjourned to the Old South Church. Votes were passed declaring that the tea must be returned in the same bottoms in which it came, and that no duty shall be paid thereon. Adjourned meetings on the afternoon of the same day and on the next day (30 November), held for the purpose of hearing what propositions the consignees had to make, exacted promises from the owner and master of the Dartmouth and from the owners of the other vessels expected that they would comply with the requirements of the people. A letter from the consignees, and in the afternoon a message from them brought by John Singleton Copley the artist, stated that it was out of their power to reship the teas, but that they were ready to store the teas under inspection until they were able to hear further from their constituents. This offer was voted to be not "in the least degree satisfactory to this body," and the watch which had been appointed the previous day "for the security of Capt. Hall's ship and cargo" was continued and instructed to take charge of other ships which might arrive later. Resolutions were passed denouncing as enemies to their country any persons who should import tea from Great Britain, and declaring that they would prevent its landing and sale and the payment of any duty thereon, and it was voted "That it is the determination of this body to carry their votes and resolutions into execution at the risque of their lives and property." ("Proceedings of the town of Boston on the 20th and 30th Novemb^{r} 1773," as printed in the Boston Gazette of 6 December, 1773, and in F. S. Drake's Tea Leaves, 1884, pp. 320–331.) The guard appointed at this meeting was continued until December sixteenth, the day of the "tea-party."

As the time passed, and the twenty days were nearly expired at the conclusion of which the vessel was liable to seizure for non-payment of duties, the Committee of Safety began to put pressure again upon Mr. Rotch, the owner of the vessel, to fulfil his promise to send her back, yet she could not be legally cleared until her whole cargo had been discharged. At first he refused, but on

ing that all will work for the best good of this much injured People. Thus much for Politics — the Paper will not allow Me to enlarge — so conclude with subscribing myself

Your sincere Friend & Class-Mate

NATH^{L}. WALKER APPLETON.

P.S. Pray write me soon.

[*Addressed*]

To

Mr Eliphalet Pearson

School-Master

in

Andover

December fourteenth (the date of Appleton's letter) a public meeting was again held called by handbills as follows :

Friends! Brethren! Countrymen! The perfidious act of your reckless enemies to render ineffectual the late resolves of the body of the people, demands your assembling at the Old South Meeting House, precisely at ten o'clock this day, at which time the bells will ring (Drake's Tea Leaves, p. lvii).

Mr. Rotch being again present, was inquired of as before, and a motion was made and seconded that Mr. Rotch be enjoined forthwith to repair to the collectors and demand a clearance for his ship, and ten gentlemen were appointed to accompany him as witnesses of the demand.

Mr. Rotch and the Committee proceeded to the Collector's (Mr. Harrison), but were put off till the next day with an evasive answer. On Thursday morning (16 December) the people met again, and having learned that Mr. Rotch had been refused a clearance by the Collector they required him to enter a protest against the Custom House and demand a pass for his ship from the Governor who was then at his country house in Milton, and adjourned till the afternoon. Meeting again at three (almost 2000 men were present) they waited impatiently till about six o'clock when Mr. Rotch returned with word that the Governor could not be persuaded to give a pass till the ship were cleared by the Custom House. The result was not unexpected; the meeting immediately dissolved, and the same evening the "tea-party" took place on board the three vessels, two ships and a brig, which were lying at Griffin's Wharf. See the account in the Boston Gazette of 27 December, 1773, and in Drake's Tea Leaves, pp. 334–336, from which part of the above is quoted. Gov. Hutchinson's account of the same proceedings is given in his History of Massachusetts, iii. 429–438.

On 14 December, the same day on which Appleton was writing to Pearson, Thomas Hutchinson, Jr., one of the consignees, wrote to his brother from

II

CAMBRIDGE Decr 21st [1773].
Tuesday Evening
7 °Clock.

DEAR SIR

I receiv'd your kind Favr. of 29th ult: this Morning, when I went to Messrs. Osgood & Farrington's Shop to leave your Paper; I can assure you Sir it gave me great Pleasure to receive a Line from you as I have been in anxious Expectation of it these some Weeks past; I had almost despair'd of ever receiving one, but was reliev'd from it by Sir Farrington [1] who inform'd me you had wrote, so concluded it was miscarried which I suppose is the one I have now receiv'd. You have ask'd pardon for your Neglect, which I readily give, on condition that the Number of your future Letters equal mine, or in other words that you write every Oppo. I am extremely obliged to you for your Expressions of Friendship towards me who am so unworthy of them, tho' I doubt not they were sincere, as they came from one who I know means to be sincere in

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Castle William (whither most of the consignees had retired on 29 November and where they stayed some six weeks):

I hear there is a meeting of the *mobility* today but don't know the result. I hardly think they will attempt sending the tea back, but am more sure it will not go many leagues (Diary and Letters of Thomas Hutchinson, 1884, i. 96).

Several papers relating to the difficulties in which the consignees of the tea found themselves, and accounts of the riotous proceedings resulting therefrom, were communicated to this Society at its February meeting, 1903. See pp. 78–102, above.

[1] Bachelors of Arts, continuing their residence at the College, were called Sir until they had taken the Master's degree. The use of the term goes back to the very earliest days of the College, when its equivalent Dominus is also found in the records. Mr. Albert Matthews has noted instances of the use of Sir in connection with Harvard College from 1649 to 1790, and calls my attention to the following passage by the Rev. Andrew Clark:

So soon as the candidate had been admitted to the degree he was by courtesy styled 'Bachelor of Arts,' and his name appeared in the University and College books with the prefix for that degree (in Latin 'Dominus,' contracted 'Dn.'; in English 'Sir,' contracted 'Sr.'). (Register of the University of Oxford, 1887, ii. i. 50.)

See also B. H. Hall's College Words and Customs (1851), p. 279; Sibley, Harvard Graduates, i. 17 *note*, ii. 2 *note*; Sewall's Diary, i. 51; R. N. Toppan, in Publications of this Society, iii. 411.

all he says or does. I readily agree with you that the Essence of a Letter consists not in Sublimity of Diction or justness of method as you may perceive by the Inaccuracy of this Scroll. By your Boarding in the best Families I take it for granted that you must enjoy a great Satisfaction in the very agreable Company of Mr. Phillips & his Lady.[1] I can readily conceive of a School of 110 Scholars employing the most of your Time.[1] As for myself I do not sufficiently improve my Opportunities to gain Knowledge although I may be said to receive Nourishment from the Fountain Head, being diverted by much Company & my own natural Fickleness. As to the unhappy Affair concerning the late Pr-s-d-nt it remains as yet in the dark. The Corporation are ordered to proceed with all convenient Speed to a new Election: trust that it may be a Repairer of the great Breach which is now made upon the Character of the College. Dr. Eliot & Mr. Willard are talked of to succeed to the Chair. As to the S. Cl. Affairs are not yet thoroughly settled, but when they are, will inform you. When I go to Boston, will stop your Paper according to your Desire. Mr. Gannet our new Tutor is generally liked. Sr. Parsons[2] is well, he proposes to tarry here the Vacancy, believe I shall do so likewise. If you'll write to your Chum Cutler & send it to me I will endeavour to send it by Emerson who goes either next Week or the Week after next. The detested TEA is the

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[1] Samuel Phillips, who a few years later was chiefly instrumental in the foundation of Phillips Academy, graduated from Harvard College in 1771. He married in 1773 Miss Phoebe Foxcroft, youngest daughter of the Hon. Francis Foxcroft of Cambridge, whom he had known while in College. Pearson and Appleton were doubtless well acquainted with her also, for all had been parishioners of Appleton's grandfather the Rev. Dr. Nathaniel Appleton. Phillips's grandfather was the Rev. Samuel Phillips of Andover, pastor of the church there for almost sixty years, who had died 5 June, 1771, at the age of 81.

[2] This was the Andover Grammar School, first established in 1700. Of forty-five masters of this school before 1792, all but five were Harvard graduates. See Sarah L. Bailey's Historical Sketches of Andover (1880), p. 322.

[3] Theodore Parsons, son of the Rev. Moses Parsons of Byfield, and younger brother of Theophilus Parsons, Chief-Justice of Massachusetts. Prof. Theophilus Parsons says of him:

> From my earliest childhood I was accustomed to hear my uncle Theodore spoken of as having been the star of the family. I am only sure that as much was expected from him as from my father, if not more. He studied medicine (in Newburyport), and was with the army in Rhode Island in 1778 and wrote many letters home. Immediately afterward he went to sea as surgeon of a privateer, and after his letter was never heard of more. Memoir of Theophilus Parsons, by his Son, p. 2[illegible].

general Topic of Conversation, the Council[1] met to day but did *not advise* to the Issuing of a *Proclamation* in order to *discover* the Persons concern'd in destroying the s'd Tea. M^r. Attorney General[2] has been pleas'd to s[t]ile it HIGH TREASON perhaps he thinks that *great Words* will put this People in Terror, but I believe he is mistaken; if the other Colonies send back or destroy those Teas sent them; I am apt to think it will be hush'd; but if it should prove otherwise, take care poor *Boston*. Thank you for the *Compliment* (for as such I shall consider it) of your being surpass'd by the Spirit & Elegance of *my* Letters. I hope that I shall not be *strict* to mark Iniquity. Shall let your Plea of a stiff thumb bear its full Sway — doubtless ere this you are *tired* of reading so I conclude by assuring you that the oftner I receive Letters from *you*, the more Satisfaction & Pleasure it will certainly give

PS. Pray excuse my
Interlinings & other Errors
particularly *Egotism.*

Your sincere Friend
NATH^L. WALKER APPLETON.

M^r. ELIPHALET PEARSON
in
Andover.

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[1] The account of this Council meeting in the Boston Gazette of 27 December, 1773, is as follows:

At a Council held at the House of the hon'ble William Brattle, Esq; in Cambridge on Tuesday the 21st day of December 1773.

PRESENT.

His Excellency THOMAS HUTCHINSON, Esq; Governor.
SAMUEL DANFORTH, WILLM. BRATTLE, JAMES PITTS,
ISAAC ROYAL, Esq'rs JAMES BOWDOIN Esq'rs. JOHN WINTHROP,
JOHN ERVING, JAMES RUSSELL (Esq'rs.

His Excellency acquainted the Council that the reason he had summoned them to meet at this time was that he might have their advice relating to the high handed Riot on the evening of the 16th Instant between the hours of six and nine o'Clock, committed by persons disguised and unknown, on board three Vessels lately arrived from London then lying at a Wharfe in the Southerly part of the Town of Boston known by the name of Griffin's Wharfe, — After long debate it was —

Advised, That the Attorney General be directed to make diligent inquiry into the offence aforesaid in order to discover the offenders, and that he lay his discoveries before the Grand Jury for his Majesty's Superior Court of Judicature &c. for the County of Suffolk, at their next Term, in order for prosecution (p. 3/1).

[2] The Attorney General at that time was Jonathan Sewall (Whitmore's Massachusetts Civil List, p. 124).

III

CAMBRIDGE Decr: 27th: 1773.

DEAR FRIEND

I receiv'd your's of 19th Inst. on 24th at Night. I can assure you it gave very great Pleasure to receive so kind & long a Letter from one whose sincere Friendship towards me merits my highest Esteem. I congratulate you on your being as well situated as most, (perhaps *I* may say as well as any) of your Order. I hope you have ere this receiv'd my two Letters with your News Paper of 20th inst. inclos'd in one; the other directed as if favd. by Mr. S. A[ ] though they did not go by him, both I believe bear Date 21st inst. Messrs [Osgood and] Farrington's Shop really cuts a *Flash*, I doubt not but they 'll make it do well after they get their Distill-House up; As such a Shop &c was very much wanted in this Town. I readily agree with you in your Remarks upon the *detested TEA*, which now causes & has caus'd more trouble & Vexation, Expence & Luxury, & perhaps such Consequences will (next Spring) follow upon the People's being *obliged* to destroy it, as the Wealth even of the EAST INDIES itself will never be able to REPAIR. I mean both its moral & political Consequences. However We must leave this & all other Matters to him who rulest & ordainest all things in infinite Wisdom. The Corporation met this Day at my Grandfathers in order to consult & deliberate upon the important Affair before them, as soon as they come to a Choice I 'll endeavour to inform you. Perhaps my dropping the following Expressions in one of my Letters (viz: "If you 'll condescend to write me") was through inadvertency, but I now *recall* it. Will endeavour to follow your kind Directions concerning the S— C— & when things are fully ripe, will write you. Forgot to stop your Paper on Friday when I was at Boston but will endeavour to remember it next Time. If your Paper comes to Town in Season will inclose but, if it should not, will send it the first Oppo. This Goes by *Doct*r. Bowman who is to go off to-morrow-morning early. This the needful at present from your sincere Friend

NATHL. WALKER APPLETON.

Mr. E. PEARSON, Pedagogue.

PS. Dr. Bowman in[forms m]e that you talk of coming down soon, pray inform me as to the Truth of it.

Yrs ut Supra.

[*Addressed*]

To Mr. Eliphalet Pearson
School-Master
Fav'd by in
Dr Bowman Andover

IV

DEAR ELIPHALET

I wish you a happy *new* Year.

Hope you have ere this receiv'd my two last, as I have not been at Boston since I wrote you. I did not stop your Paper, but I intend to go certainly this Week & will endeavour to remember it, pray write me every Oppº. All well. The News you 'll see in the Paper, the *Indians* [1] are determined that there shall be no Tea used any where. I rec'd a line from Cutler yesterday, he is well & in good Spirits. I propose to tarry here this Vacancy.[2] Sr. Parsons tarries here as *Scarecrow*.[3]

So this the needful at present

from your sincere Friend

N W APPLETON.

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[1] The example of the Boston "tea-party" was imitated on a smaller scale on several occasions, and the accounts of such proceedings are found in the papers of the day and were evidently relished by their readers. The Boston Gazette of 3 January, 1774, notices two such cases:

Whereas it was reported that one Withington, of Dorchester, had taken up and partly disposed of a Chest of the East-India Company's Tea: a Number of the Cape or Narragansett-Indians, went to the Houses of Capt. Ebenezer Withington, and his Brother Philip Withington, (both living upon the lower Road from Boston to Milton) last Friday Evening [31 December], and with their consent thoroughly searched their Houses, without offering the least offence to any one. But finding no Tea they proceeded to the House of old Ebenezer Withington, at a place called Sodom, below Dorchester Meeting-House, where they found part of a half chest which had floated, and was cast up on Dorchester point. This they seized and brought to Boston Common where they committed it to the flames (p. 3/1).

The Vessel which bro't up the Goods (last Saturday) saved out of Capt. Loring's Brig, was the same Evening thoroughly searched by Indians, and no TEA found on board. Such a good Look-out being kept, *What occasion is there for* TIDE-WAITER'S, PIMPS, or INFORMERS? (p. 3/2).

Sodom was a name applied to the low lands east of Meeting House Hill bounded, practically, by East, Freeport, High, and Church Streets.

[2] Vacations at this time (under vote of 6 June, 1766) were four each year, one of four weeks following Commencement, one of two weeks from the third Wednesday in October, one of five weeks from the first Wednesday in January, and one of two weeks from the second Wednesday in April. The vacations in spring and autumn were provided expressly that the students might visit their homes and get their summer or winter clothing in order.

[3] This is explained by the Faculty vote of 3 January, 1774: "Voted that Sir Parsons have the whole care of the Colleges this Vacation." The term was evidently in common use, and was accepted by Faculty as well as students, for it occurs at least once in the Faculty Records — as the marginal note against a similar vote, 14 August, 1776.

To
ELIPHALET PEARSON A. B.
in
p^r^ the Bearer. Andover

PS. The People of Charlestown burnt their *Tea* last Friday at Noon.[1]

Y^rs^
E. P. A B N W A

[*Addressed*]
For
Mr Eliphalet Pearson
in
Andover

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[1] The Boston Gazette (Supplement) of 27 December, 1773, reports that on 25 December, the dealers in Charlestown resolved and agreed—

That we will not after this Day, directly or indirectly, by Ourselves or any for or under Us, buy or sell or suffer to be used in our Families, any TEA, until the Duty is repealed.

And whereas some of us may have more Tea on hand than others, in order that the Loss may fall equally, Voted, That the same be bought at the joint Expence of this Company and destroyed (p. 1/3).

The Boston Gazette of 3 January, 1774, gives the further proceedings of the people of Charlestown in respect to the use of tea:

At a legal and very full Meeting, of the Freeholders, and other Inhabitants of the Town of *Charlestown*, December 28, 1773.

The following Votes were *Unanimously* passed.

1. Considering the Advantages that will result to this Community (in every Point of Light) from the Disuse of *India Tea;* We will not by ourselves, or any from or under us, buy or sell, or suffer to be us'd in ou[r] Families, any such *Tea*, till the British Act of Parliament, imposing a Duty on the *same* shall be repealed.

2. That a Committee be chosen to collect from all the Inhabitants of this Town, all the *Tea* they may have by them; and that such Persons, as shall deliver up the *same* to said Committee, be paid by the Town the Price it cost them. And that the *Tea* so collected, be destroyed by Fire, on Friday next at Noon-Day, in the Market Place.

3. That Messrs. *Isaiah Edes, Samuel Conant, Caleb Call, Benjamin Hurd, Samuel Wait, Battry Powars* and *David Wood*, jun. be the committee for the Purposes abovementioned.

4. That the above named Persons, be a Committee of Inspection, to see that all the aforegoing Votes be fully complyed with.

5. That if any of the Inhabitants of this Town, shall do any thing to counteract, or render ineffectual the foregoing Votes, they are not only inimical to the Liberty of AMERICA in general, but also show a daring Disrespect to this Town in particular.

6. That the Committee of Correspondence, for this Town confer with the Committee

V

CAMBRIDGE Jany. 4th 1773 [1774]
11 °Clock A. M.

DEAR FRIEND

I receiv'd your Letters bearing Date Decr. 28 & 31st this Day at 10 °/Clock & not before. Went immediately over to College, but *alass* Sheaffe,[1] Clarke, Rogers, Penhallow, McClintock, *Emerson*, Fenton & King were all gone off this Morning, I hunted all over College to find one going that way, after a Search & Inquiry of ½ an Hour I found one *Evans* a freshman, that belongs to Dover, he 'll set off this Afternoon, says, that he has opportunities *every* Day to send to York, so I committed the Letter to his Custody, trusting that it will arrive *safe* at

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of Correspondence for the Town of *Boston*, and desire their Influence, that similar Measures may be taken in their Town.

7. That the above Proceedings of this Town, be published in the News-Papers.

A Copy,

Attest. SETH SWEETSER, Town Clerk (p. 3/1).

The same issue of the same paper reports the carrying out of the vote to destroy the tea on hand:

The Inhabitants of Charlestown, agreeable to a unanimous Vote of said Town the Tuesday preceeding, on Friday last voluntarily bro't *all* their TEA into the public Market Square, where it was committed to the Flames at high Noon-Day. — *An Example well worthy Imitation!!* (p. 3/2).

[1] Sheafe, Clarke, Rogers, Emerson, and Barnard were members of the Senior Class (1774); Macclintock and Osgood graduated in 1775; Penhallow, King, and Evans graduated in 1777; Poor is more likely to have been Daniel Noyes Poor of West Newbury, of the Class of 1777, rather than John Poor of 1775, who came from New Hampshire. Joseph Evans's home was in Dover. Thomas Fenton was a Freshman, but left College before completing the course. The Faculty Records (iii. 243) state that he was born 17 January, 1757, and give Charlestown as his residence. He was doubtless the son of Capt. John Fenton of Boston, who, with wife Elizabeth, lived in Charlestown, where the father, sometimes described as of Boston, was taxed, 1770–1773, as a landed proprietor (Wyman, Genealogies and Estates of Charlestown, i. 343). John Fenton and Elizabeth Temple published their marriage intentions 29 September, 1755 (Boston Record Commissioners' Reports, xxx. 16). Elizabeth Temple was doubtless the daughter of Robert Temple of Ten Hills by his wife Mehitable, daughter of John Nelson, and was baptized at Christ Church, Boston, 9 April, 1727. Capt. John Fenton was of the British Army and died in Dublin, Ireland, in March, 1785, leaving issue. See T. Prime, Some Account of the Temple Family, Second edition (1894), p. 34 and *note*. For this information about Fenton, I am indebted to Mr. Henry H. Edes.

its destined Port. The Letter in which your Paper is enclos'd was wrote at 9 °/Clock this Morn. I could find no one going Andover Road, Osgood, Poor & Barnard gone off, so I now write an Answer waiting the first Opp°. to send. —— Now for your Letters —— Perhaps one Reason why you would not write on any *learned* Subject was because you thought, (I say perhaps) that *I* should *not* understand. I do *not* like your *Method* of writing, it is too much like sermonizing, which you know we have twice every Week, however I 'll allow for *your* writing, as perhaps it may be in order to get your hand in, as I suppose you intend to *pr—ch*. Whenever you do undertake to write a Sermon I hope that you 'll not go to Work in this Way as it will be (as *you* very well say) all *Method* & no *Matter*, it will answer to spin out the Hour, but I trust you 'll be enabled to entertain your Audience an Hour, with *Matter* as well as *Method*. You may remember that in the 3^{d} place under the 2^{d} place which was under 1st Head you have these Words " 3^{ly} Thirdly the alleviation or mollification of the Condition " which please to explain in your next. Remember you have promised me the other 4 Heads when you have Time. Am glad you slept some & was some refreshed after sermonizing till Midnight. As for me I intend to tarry here & embrace the Privilege of living here till the Spring when I propose to go & live with some Practitioner in *Physic* perhaps at *Boston*. As for News & Curiosities I have nothing except what is in the papers. I conclude that by the Time you receive this you 'll be out of Concern for Boston as all the Colonies have in a Manner *united*. *The detest'd Plant* is not drank in the Hall,[1] perhaps it may be in some *few* private Chambers;

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[1] Despite what Appleton says of the use of tea in the Hall (in Harvard Hall), its use was revived to some extent and it came to be a source of trouble, as is shown by the following extract from the Faculty Records of 1 March, 1775:

A Disorder having arisen this morning in the Hall at breakfast, between some of the Students, respecting the drinking of India Tea; & some of the Utensils for breakfasting having been broke: & the Parties having been heard —

Resolved 1. We disapprove of the conduct on both sides as imprudent.

Resolved 2. That the regulation of the Hall belongs exclusively to the Government of the College, & consequently that no Students have a right to interpose with regard thereunto, & that those Students who have thus interposed have conducted disorderly in this respect, & ought to make restitution for the Property of their fellow Students, by such interposition destroyed.

Resolved 3. Since the carrying India Teas into the Hall is found to be a Source of uneasiness & grief to many of the Students, and as the use of it is disagreable to the People of this Country in general; & as those who have carried Tea into the Hall declare that the drinking of it in the Hall is a matter of trifling consequence with them; that they be advised not to carry it in for the future, & in this way that they, as well as the other Students in all ways, discover a disposition to promote harmony, mutual affection,

for my part have not drank any this sometime & believe I shall not till the *Duty* is repealed &c. Shall expect to see you here this Winter. Thus much for your's bearing Date 28th Decr. Thank you for your Wish of a happy new Year. Am sorry you are not pleas'd with the Tea Dealers in Boston.[1] I would just ask you one Question. Pray what

& confidence, so well becoming Members of the same Society: that so peace & happiness may be preserved within the Walls of the College whatever convulsions may unhappily distract the State abroad (iv. 4, 5).

A similar state of feeling against the use of tea at Princeton is shown by the following paragraph in the Boston Gazette of 14 February, 1774:

By a Gentleman just arrived from Princetown, in New-Jersey, we are informed, that the Students of Nassau College, being determined to contribute their Assistance towards discountenancing the Use of the detested Tea, collected all that was in the College, and voluntarily made a burnt Sacrifice of the same. They also burnt the Effigies of Governor H——n, amidst the repeated Acclamations of a large Crowd of Spectators (p. 3/2).

[1] In the Boston Gazette of 20 December appeared a "Notification," dated 18 December, 1773, as follows:

At a Meeting of some of the principal Venders of TEAS in Boston, on Friday Evening the 17th Instant, for consulting and determining on suitable Measures to be adopted, and to cooperate with a Number of respectable Inhabitants of this Province, express'd by a Vote of their late Assembly to suppress the Use of that detested Article; the more fully to execute this Purpose, it was agreed that a general and full Meeting should be convened on Tuesday the 21st Instant, 5 o'Clock, P. M. at the Royal Exchange Tavern in King-Street; where it is desired and expected that all the Dealers in, and Venders of Teas will punctually attend.

N. B. It is earnestly desired that those concern'd would not fail of giving attendance at the Time fix'd (p. 3/2).

The resolutions passed at the meeting are given in the Boston Gazette (Supplement) of 27 December, 1773:

At a Meeting of a large Number of the principal Dealers in Teas in Boston, *the 20th, and continued by Adjournment to the 23d of* December, 1773.

[A preamble rehearses the dangerous character of the ministerial movement in favor of the East India Company, and laments the interruption of that reciprocal affection which had formerly subsisted between the parent state and the Colonies, and continues:]

Apprehending it may be in some degree in our power, to facilitate this wish'd for State, by our late Connections, as sellers of the article thus burthen'd, and the consequent influence we must have in suppressing its use: This consideration, hath begot an expectation in many of our fellow-citizens, and countrymen, that we do unite our endeavors with theirs in exterminating this destructive herb from the province —

It must be evident to our Friends and Countrymen, in the Seaports and other Towns, that a congruity of action at this important crisis, is as necessary, as a unanimity of sentiment; and that this instance of disinterestedness we are about to exhibit, by a voluntary surrender of an advantageous article of commerce, when oppos'd to the public good, will stimulate them to adopt similar measures to ours; in this confidence, sup-

Good does it do to burn their Tea for which they have paid the Duty &c ? Let them stand by their Resolution not to import, vend or use any more. The 39 Protestors of Plymouth, are universally despis'd.[1]

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ported by a recollection of their inflexible virtue, frequently, and recently manifested, — We chearfully enter into the following Resolves;

1. That from and after the 20th January 1774, we will totally suspend the sale of all Teas, until the sense, and determination of the Inhabitants of the Sea-Ports and other Towns, can be known, with respect to its total expulsion; or until a repeal of the Revenue Act may take place.

2. That we will not in the mean time, purchase on our own account, or receive on commissions, or otherwise, any Tea whatever.

3. That the Tea we have by us unsold, which cost us 5s shall be sold at no more than 4d. advance, until the time limitted for suspending the sale.

4. That a Committee be appointed to apply to all the Dealers in Tea, in this Town, to obtain their compliance to these Resolves, and make report of the same, with the Names of those who decline, (if any there may be) at our next meeting.

5. That if from the change of circumstances, or the intervention of other causes, any Ten of our number shall judge it necessary to call a Meeting, to make any alterations, or to adopt other measures to affect the aforesaid purpose, they have our Consent to do it.

N. B. It is desired that all persons concern'd would consider the importance of a just determination, and be prepared to give answer to the Committee, who will apply to them in a few days.

The result of the labors of the committee appointed in accordance with the fourth resolution was reported as follows in the Boston Gazette of 24 January, 1774:

BOSTON, JANUARY 20. — The Committee appointed at the late Meeting of the Dealers in Tea in this Town, joined by a Gentleman from the Committee of Correspondence in this Place, to repair to the Persons concerned in the Sale of that Article to obtain their Assent, and Subscription to the Resolves passed at said Meeting; have in Conformity, applied to the principal Dealers, and find the Numbers to stand thus,

79 against the Sale and Use of all Tea,
9 for the Sale and Use only of such as may not be subjected to Duty.

This being the Day fixed when the Sale of Tea will cease, it is desired and expected that such who have agreed to, as well as those who have subscribed the Resolves offered to them by the Committee, will strictly adhere thereto; and it is wished that the Few who have not, will on a Reconsideration, perceive the Utility and Necessity of the Measure, and immediately join their disinterested Fellow-Citizens in the same Resolutions (p. 3/1).

[1] On 7 December, 1773, the citizens of Plymouth passed resolutions supporting and approving the action of the Boston patriots. These were published in Draper's Gazette of 23 December. On 13 December a protest against the resolutions and reflecting severely on the course taken by the Old South meeting was signed by 39 persons (see Boston Gazette, Supplement, of 27 December). Several of the signers afterward withdrew their adherence to the protest.

You mention that you 'll " enclose something concerning the S– C if you have Time " as you have not please to remember it in your next. I believe you must excuse my not complying with your Request of burning your *nonsensical* Letter (as *you* are pleas'd to call it) as I shall keep it amongst my *valuable* Papers. Excuse the Incoherence of this Scroll, concluding that by this Time you are pretty well tired, I conclude by

subscribing myself
Yours affectionately
NATH^L. WALKER APPLETON.

To the Pedagogue
of Andover.
[*Addressed*]
To
Mr Eliphalet Pearson
Schoolmaster
in Andover

VI

CAMBRIDGE, Febr: 10th: 1774

DEAR ELIPHALET :

Inclos'd is another of your Papers, which you 'll perhaps be as surpris'd to see, as I was to hear y^t it was at Mr. Howe's. I called at the printers some time since (as I think I wrote you) who promis'd me they would stop the paper, but by some Accident it came this Week, the next time I go to Boston, I 'll endeavour to remember it. This goes by Sr Parsons who can inform you of all the news so need not write it. We are appre[he]nsive that we shall be able to put a Stop to the prog-

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Barnabas Hedge did so in a card published in the Boston Gazette of 27 December; thirteen others " who were inadvertently seduced into an error by artifice and misrepresentation " recanted in the Boston Gazette of 24 January, 1774.

The papers of December, 1773, and January, 1774, are full of accounts of meetings held in the surrounding towns to uphold the act of 16 December and the agreement to give up the use of India tea. The action of the other Colonies in regard to the same matter was also set forth at length, and accounts of the burning of tea are frequent. For example, in the Boston Gazette of 24 January, 1774, we read:

Last Thursday a large Quantity of Bohea Tea given up by some Gentlemen was committed to the Flames in King-Street (p. 3/1).

ress of the small-pox in this Town. Doct^r Cooper[1] is chosen presid^t but it is doubtful whither he will accept; on some Acct^s: it would do; tho' not on others, so trust he 'll be directed for the best. You may remember y^t in your last you promis'd to write me this Vacancy, but as I have not rec'd a Line from you for some time, shall expect one soon. As to the Affair of the Judges &c & of the S— C— Parsons can give you a much more full & intelligible Acct. than I can possibly write you. Expect to hear soon from Cutler & if I receive a Letter for you, I 'll send it along p^r 1st Opp^y

Excuse this incoherent, & unintelligible Scroll
from your Sincere Friend
NATH^L. WALK^R. APPLETON.

P S. I would just in form you
that Dr Cooper's Dudleian Lecture -
Sermon[2] is out & to be had at Greenleaf's
printing Office price $^7/_6$ in Orange Tree-Lane
Yrs N W A

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[1] On 31 January, 1774, the Hon. John Winthrop was chosen President in place of Samuel Locke. On 7 February, "Dr. Winthrop having declined accepting the Office of President," the Rev. Dr. Cooper of Boston was chosen. Dr. Cooper also declined, and the Corporation on 15 July chose Dr. Eliot, but he also, a Fellow of the Corporation and present at the meeting at which he was elected, declined immediately. On 18 July the Rev. Dr. Samuel Langdon of Portsmouth was chosen and accepted the office.

[2] The following is the title-page of Dr. Cooper's Discourse;

A
DISCOURSE
ON THE
MAN OF SIN;
DELIVERED IN THE
CHAPEL of HARVARD COLLEGE,
IN
CAMBRIDGE, NEW-ENGLAND,
SEPTEMBER 1, 1773:
At the LECTURE, FOUNDED
By the HONORABLE
PAUL DUDLEY, ESQ.

BY SAMUEL COOPER, D. D.
Pastor of the Church in *Brattle-Street*, BOSTON.

BOSTON: Printed and Sold at GREENLEAF'S
Printing-Office, in HANOVER-STREET.
M,DCC,LXXIV.

[*Addressed*]
For
Mr Eliphalet Pearson
in
Fav^{d} by Mr T. Parsons
Andover

VII

CAMBRIDGE, Feby. 21st 1774
$^{1}/_{2}$ past 10 °Clock Evening

DEAR FRIEND

I was very glad to hear by Sr Parsons of your Welfare. As I am inform'd Mr. Farrington sets off for Andover tomorrow-morning early, take this 1st Opp^{o} of sending your Paper of 14th Ins^{t}. since which time I have been at Boston & stopt it, Messrs Edes & Gill desired me to inform you that you Now owe for 6 Months vizt from Augt. 15 to Feby. 15. The Gov^{t}. still refuses to comply with the reasonable Request of the House with respect to the removal of Judge Oliver.[1] The Court is to sit tomorrow what the Event will be we know not. As it is late I shall conclude

with informing you that I shall *certainly* expect a Letter from you to
Your sincere Friend
NATH^{L}. WALK^{R}. APPLETON
by the Bearer hereof.

NO PRESIDENT as yet S^{r}.

To a pedagogue at Andover

[*Addressed*]
For
Mr Eliphalet Pearson
at
Fav'd by M^{r}. Farrington[2]
Andover

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[1] See the Publications of this Society, v. 71–74 and *notes*.

[2] See p. 824 *note*, below.

VIII

SALEM[1] November 21 1774

DEAR FRIEND

It is so long since either of us has wrote the other that I actually forget which is in default, however it would be inexcusable in me not to embrace this Opp^{y} of writing you by my father, who I expect will set out to-morrow or the next day, for Cambridge in order to attend the Congress which is adjourn'd to 23rd Inst —

SALEM 22^{d} Novr 1774

We had the pleasure of seeing our Friend T. Parsons Yesterday. I see him and that was all, for he hurried thro' the town as if he had been afraid to stay in it, however I cannot really blame him considering that the Weather has turn'd out to be such as renders it very disagreable travelling. It is sometime since I heard from our Friends N. Cutler, or S. Crosby. What do you think of the Parliament's being dissolved? Is it a Maneuvre of Ld North's or was the Clamour of the people the Occasion of it? Time will soon discover to us the Cause and the Effect of it, grant that it may prove salutary to this long oppress'd and distress'd

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[1] Appleton took up the study of medicine in Salem with Dr. Edward Augustus Holyoke (born 1 August, 1728, H. C. 1746), son of President Holyoke by his second wife Margaret Appleton, a sister of the Rev. Nathaniel Appleton for so many years minister in Cambridge. Dr. Holyoke was therefore the cousin of Appleton's father. He had settled in Salem in 1749 and continued to practise there until his death in 1829. He was the first President of the Massachusetts Medical Society, and was President of the American Academy of Arts and Sciences. Harvard conferred on him the honorary degree of M.D. in 1783 (the first instance of the degree's being so conferred by the College), and that of LL.D. in 1815. For sketches of Dr. Holyoke, see Massachusetts Medical Society, Medical Dissertations (1829), iv. 186–260; Essex Institute Historical Collections, iii. 59, 60, iv. 273, 274.

Edward Barnard and Francis Borland, who graduated in the year after Appleton (1774), entered upon the study of medicine under Dr. Holyoke at the same time.

Appleton seems to have been living in Salem with another cousin of his father's, a sister of Dr. Holyoke, Margaret (Holyoke) Mascarene, the wife of John Mascarene, comptroller of the customs in 1760. William Pynchon's Diary shows continual references to Dr. Holyoke and Mrs. Mascarene. John Mascarene died 24 September, 1779. See Heraldic Journal, ii. 125, 126; New England Historical and Genealogical Register, ix. 239–247, x. 143–148; Boston Record Commissioners' Reports, xxviii. 294.

People; but I'll have done with Politics and proceed to ask you in what State the S— C of Harv: Coll is in; is it ruined or no, if not do exert yourselves to restore it to its pristine Splendor. I hope the Clitonian has not superceded it; — Pray write me soon, my Respects to the several Persons who compose that agreable Family in which you have the pleasure to reside at present; My Compliments to M[r] Wadsworth and our other Friends at the Seat of the Muses — pray inform me how the new Pr-s-d-t performs the several Functions of his new & important Station. Please to remember that you are now in some measure indebted to

Your sincere Friend
& Class-Mate
NATH[L] WALK[R] APPLETON

ELIPHALET PEARSON A. B.
Cambridge
[*Addressed*]
To
M[r] Eliphalet Pearson
To be left at } in
Mad[m] Holyoke's. } Cambridge

IX

SALEM Jan[y]: 24th 1775

DEAR FRIEND

I embrace this Opp[y] by the Doctor & his Lady to return a short Answer to your last kind Epistle, which I should answer more fully, but as Debts of that sort are generally cancelled by a Visit, I shall expect a Letter from you by the return of the Bearers, if you are not too much engaged in their agreable Company, my Respects to our Friend Theodore & please to let him know that I shall expect the same Favour from him. As to the Affairs of the Town w[h]ither publick or family you will learn from the Doct[r] &c. Being in great haste you must excuse my being short & may expect a longer one the next Opp[y] from

Your sincere Friend
N W APPLETON

My
Tuesday 10 ° Clock A M —
To
ELIPHALET PEARSON A B
Student in Divinity
at
Cambridge

[*Addressed*]

To
Mr Eliphalet Pearson
Student of Divinity
in
Cambridge

Favoured by
Dr Holyoke & Lady

X

SALEM March 5th 1775
Anniversary of the Massacre

DEAR FRIEND

I improve this first Opp^{y} after you[r] last, sudden & short Visit, to renew a Correspondence which has been interrupted these some Months. I cannot think of this melancholy Day, without Horror & Trembling, to consider the fatal Consequences of placing a standing Army in time of peace in a free & populous City; but alass instead of removing that Army forever after that fatal Night from that unhappy Town, we now find it full of those mercenary Wretches, who are always ready to obey the Nod of a ministerial T-r-nt. I understand that Doct^{r} Warren [1] is to pronounce the Oration on the morrow at which I suppose you 'll be present; please to write concerning this and other matters by my Father who will come from Cambridge hither on Wednesday next. Mr Mascarene has had an ill turn these two nights, all other Friends pretty well. Hope you 'll call soon upon the S— C— and give me some information concerning that Cl— of which I have the Honor to be a fellow-Member with you, am therefore desirous of knowing of its prosperity & Success, and that it may continue for a long time yet to come a Blessing and Ornament to the Sons of Harvard is the earnest Wish of him who subscribes himself

Dear Eliph: your sincere Friend —
NATH^{L} W. APPLETON

Remember me to your
agreable Family & College Friends

ELIPHALET PEARSON A. B.
in Cambridge.

[*Addressed*]

For
Mr Eliphalet Pearson
in
Cambridge

To be left at
Mad^{m} Holyoke's

[1] This was of course Joseph Warren, whose Oration was delivered on March sixth because the fifth fell on Sunday.

XI

SALEM May 30th — 1776

Thursday AM.

DEAR FRIEND

Understanding that Mrs Mascarene would have an Oppo. to send to Andover [1] this Week I could not neglect it altho' I wrote you *yesterday* what you will esteem nothing but a mere Scroll. I have again & again perus'd your Essay if I may so call it with impartial attention. You desire me not to fail to give you my Sentiments *fully* upon it. I wrote you yesterday *concise*. Ever since I first heard of the Act (for you must know I have never seen it) the *Name* of a TEST Act [2] struck me with surprise; (if anything can be surprising that the last Genl. C--rt did) I have never yet talked with any one upon it, but have entirely agreed with me, that it is arbitrary, tyrannical, & even *blasphemous*. If I was to enlarge it would be nearly a repetition of what you have wrote. But what *one good End* will it *i. e.* the Act answer, my Friend? if possible answer that Question. My having been in the same predicament as yourself is the *only* apology I shall offer for not having wrote you before. As you & Cousin priscy [3] have had thoughts for this some time past to visit Salem hope you 'll not give them over but make us happy with

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[1] At this time the College was still in exile from Cambridge. Early in May, 1775, the library and philosophical apparatus had been removed to Andover by direction of the Provincial Congress. In September the Overseers directed that the College be removed to Concord and a part, if not the whole, of the library and apparatus was installed in the same place in a private house. They did not return to Cambridge until 21 June, 1776. During this period Pearson naturally returned to his friends the Phillipses in Andover, and seems to have continued his theological studies.

[2] The Act passed 1 May, 1776 (Massachusetts Province Laws, v. 479–484), required all persons to subscribe to a declaration that they sympathized with the Colonies and would not assist in any way the British forces, on pain of disarming, and being disqualified from holding office, voting, *etc.*

[3] Priscilla, daughter of President Holyoke by his second wife Margaret Appleton, born 29 July, 1739, later became Pearson's wife. Does this passage imply that Pearson and Appleton had both become engaged about this time? President Holyoke married for his third wife Mary (Whipple) Epes, the widow of Major Symonds Epes. See Hammatt Papers (1854), p. 94. Mrs. Holyoke lived to an extreme age and died at Cambridge 20 March, 1790. The following notice appeared in the Massachusetts Centinel of Wednesday, 24 March, 1790:

DIED] — *At Cambridge, last Saturday evening, Madam* MARY HOLYOKE, *widow of the late Rev.* President Holyoke, *aged* 91. *Her funeral procession will move from the house of Mrs. Elizabeth Kneeland, this afternoon, precisely at* 4 *o'clock* (p. 11/2).

your Company soon. My love to Miss Epes congratulate her upon her recovery. Dear Friend I am really concern'd for Cousin Betsy,[1] but Mrs Mascarene will write by this Opp^o. our good Doct^rs *Advice* upon the matter. I understood last week by *Johnny Low*[2] that our Friend Parsons & plummer were gone to be inoculated. I could wish you might have been with them. Mr Barnard set out last Saturday from Haverhill for N°. 5[3] on the same Acc^t so he will doubtless meet them there — in consequence my Duty in the Shop &c will engage my Attention more closely for a Month or so. O Quebec! Quebec![4] — — I delivered Miss Polly Smith's letter yesterday P M — perhaps she will return an Answer at this Opp^o. — I have made a few Extracts from Macquer's Chymistry on the Phlogiston[5] — the Acids — Salts — Metals & Semi-

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[1] This was no doubt Mrs. Mascarene's sister Elizabeth Holyoke, a daughter of President Edward and Margaret (Appleton) Holyoke. She was born 25 April, 1732, married William Kneeland of Boston, and died 15 September, 1821.

[2] John Low and Joshua Plummer were both classmates of Appleton and Pearson.

[3] It is not easy to identify this place. Township Number Five was granted by Massachusetts 16 January, 1735–36, to men from Hopkinton, and was called New Hopkinton until its incorporation on 10 January, 1765, as Hopkinton, New Hampshire (New Hampshire Town Papers, xii. 255–272). There was also in Berkshire and Hampshire Counties, Massachusetts, a large plantation called Number Five (Massachusetts Province Laws, v. 911, 1072). But it is difficult to see why any one should have gone to such remote places for inoculation.

[4] Arnold's unsuccessful expedition through the wilderness to attack Quebec, after a useless siege had finally retreated in May.

[5] Phillips and Pearson at this time had been occupied in learning how to make gunpowder, of which the Continental army during the winter of 1775–1776 had been in desperate need. Samuel Phillips, then a member of the Provincial Congress sitting at Watertown, proposed to the House to erect a powder-mill at Andover with their concurrence, and the House accepted his proposition. (See Massachusetts House Journals, 2, 3, 6, 8 January, 1776, pp. 105, 107, 122, 124.) Phillips obtained the ready co-operation of his townsmen in cutting a canal and building the mill (Taylor's Memoir of Samuel Phillips, 1856, p. 70), and Pearson threw himself with ardor into the necessary chemical experiments. William E. Park writes:

> The whole difficulty lay in procuring saltpetre. He ransacked libraries for treatises on chemistry, corresponded with the few persons in our country who were then acquainted with the subject, compared the different theories of the day, constructed his own formula, and a manuscript still existing records the minute details of the thirteen successive experiments which he made. The last trial was successful, and Pearson declared in his old age that he never felt such a moment of enthusiastic joy as when, after twenty-four hours of unintermitted labor and watching, the crystals appeared at last. Those crystals meant that he could get gunpowder, if that could be procured the British

metals — if you have not seen the [ ] & they will be agreable — as they are only on half Sheet Paper — I will send them p^r^ first Opp^o^. You perhaps will be thoughtful of the little Girl that had the Misfortune to be kicked in the Stomach by a Horse — she is something better today — it was a violent Contusion — very *problematical* at present whether she will recover.

Thursday P M — The information that I sent you yesterday concerning the Congress was as I heard it, but it turns out to be a mistake; the Congress have *not voted for Independence*. But the Question was agitated when there were but 10 Colonies present — & there was 6 to 4. The 3 Colonies that were absent were Rhode-Island, Jersey & Georgia — from whence you will know which were the 6 Colonies for it. Your Sentiments if you please on the important Affair of Independance. I trust that you will, as I shall, improve every Opp^o^ to write & I hope that our interrupted Correspondence will be carried on with redoubled Vigor. Have not as yet heard a Word from Watertown — shall not seal my Letter 'till tomorrow — when perhaps I may add something further.

Friday Morning

Well, Friend, You will ere this reaches you see yesterdays Paper, in

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could be beaten, if they could be beaten, America would be free. For several days the problem of American liberty was working out, not only on the floor of the Continental Congress, but in the pans and kettles of the indefatigable Pearson. There is still extant a letter from an aged lady pupil of Dr. Pearson, stating that she well remembered going to school as usual one morning almost ninety years before, seeing the desks covered with pans of the bleaching saltpetre, and hearing to her childish joy, from the preoccupied teacher, that there would be no school that day. The cellars and barnyards of the neighbors were dug up for the sake of the nitrous earth, by the shovels of the energetic Pearson and his patriotic chemists, the experiment was completely successful, nor did our army ever afterwards suffer from the lack of ammunition (Earlier Annals of Phillips Academy, 1882, pp. 22, 23).

The book referred to in the text is Andrew Reid's translation of Macquer's Elements of the Theory and Practice of Chymistry, London, 1758. A second edition was published in 1764. Macquer's Chymistry, published shortly before Lavoisier's discoveries revolutionized the chemical theory of combustion, is based on the Phlogiston theory. Of this supposed elemental substance, the author says:

It differs from elementary Fire in the following particulars. 1. When united to a body, it communicates to it neither heat nor light. 2. It produces no change in its state, whether of solidity or fluidity; so that a solid body does not become fluid by the accession of the Phlogiston, and vice versa; the solid bodies to which it is joined being only rendered thereby more apt to be fused by the force of the culinary fire. 3. We can convey it from the body with which it is joined, into another body, so that it shall enter into the composition thereof, and remain fixed in it.

which the First Article that strikes your Attention is the Vote of Congress[1] pass'd 15th inst. — Judge You — Independance or not? This I suppose is the Vote that was pass'd 6 to 4 &c. You will deliver the enclos'd Letters.

That you may be succeded in all your Undertakings & prove to be a faithful & successful Minister of the Gospel of the ever blessed Jesus — is the sincere Wish & ardent Desire of your

Sincere Friend
NATH[L] WALK[R] APPLETON

P S I think you will approve of that part of the Instructions to the Representatives of Boston which respects the internal Police of the Colony.[2]

[*Addressed*]
M[r] Eliphalet Pearson
in
Andover

XII

[19 August, 1776.]

It would be unpardonable in me, my Friend, to neglect this favourable Opp[o] of writing a few Lines *to* you, altho' I have not the pleasure of receiv[g]: one *from* you p[r] M[r]. French, which I will endeavour to excuse, considering the many important Affairs that no doubt take up most of your time. As you have begun to preach if you could come this Way so as to give me an Opp[o] of hearing *you* my dear Friend expound the Scriptures from the sacred Desk it would give me great Pleasure. You 'll

[1] The vote referred to was apparently the Resolve passed 10 May:

Resolved, that it be recommended to the respective assemblies and conventions of the United Colonies, where no government sufficient to the exigencies of their affairs hath been hitherto established, to adopt such government as shall, in the opinion of the representatives of the people, best conduce to the happiness and safety of their constituents in particular, and America in general (Journals of Congress, 1823, i. 339).

This vote was published 15 May with a preamble which began:

Whereas . . . it appears absolutely irreconcileable to reason and good conscience, for the people of these colonies now to take the oaths and affirmations necessary for the support of any government under the crown of Great-Britain, and it is necessary that the exercise of every kind of authority under the said crown should be totally suppressed, *etc.* (*Ibid.* i. 345).

[2] See Boston Record Commissioners' Reports, xviii, 236–238.

readily believe me, when I assure you that my barren Genius produces nothing at present fit for your Contemplation. I am truly sensible of the importance of cultivating that necessary part of a good Education — the inditing of a Good Letter or in other words keeping up a friendly Correspondence by Letter; that it improves the mind & that it encreases the sacred Flame of Friendship which has been already enkindled in two congenial Breasts. Therefore should be extremely glad to do all in my power towards promoting such a friendly intercourse between us. As to the Welfare of M^r^. Mascarene's Family concerning whom you 'll doubtless be Anxious, Miss Priscy can better inform you than I can possibly write. You are, no doubt, conscious that the present Topic of Conversation is Politics, or rather an Enquiry into the News of the day — at this time we may reasonably expect to hear very soon, something of importance from the two Armies at New York & Ticonderoga. There was a Report in town on friday of a Battle at N York — but it was told with so many improbable Circumstances, that few People gave credit to it any further than that there had been a Battle, but even that seems now to be without foundation. When I was at Cambridge last Week, in order to *fee M^r^. Pres-d-nt L—* for a Degree,[1] I had not the pleasure of seeing any of our Class Mates except Farrington, Fales & Peabody. Had the pleasure of drinking Tea that PM with Mr Farrington, *his Lady & child*, Peabody in Comp^a^ Does it not surprize you? to think that a N^o^. of the same standing with our selves have got into the World as it were, before us. But I am content to wait with patience, not doubting but that in due time We shall be provided for, in the several Branches of our proffesions. You have heard, no doubt, that Cata-

[1] The degree of Master of Arts was conferred in due course three years after graduation upon payment of a fee. This custom continued down to 1872, the Class of 1869 being the last class whose members enjoyed the right to claim an A.M. on these easy conditions. Down to 1774 the law (Law 5 of Chapter X.) had been in regard to degrees :

Each Candidate for his first or second Degree, shall pay to the President twenty Shillings; and to the Steward five Shillings & four pence for the Catalogues, & eighteen Shillings for the public Dinner & other Commencement Charges. (From an official manuscript copy of the Laws in the Harvard College Library made in 1766 [?].)

At a Meeting of the Corporation, 31 May, 1774, it was —

Voted that Law 5. of Chap X. be amended as follows. viz.

Each Candidate for his first or second degree, shall pay to the President twenty Shillings, & to the Steward eighteen Shillings for the public Dinner & other commencement charges. And every Candidate for his first degree shall also pay to the Steward five shillings & four pence for printing the Catalogues. (College Book No. 7, p. 272.)

logues[1] are to be printed this Year & in a pamphlet. Alas! our good old Friend *Cutler* appears first with an *Asterism* prefix'd to his Name — grant that it may be truly ominous of his being in those *starry* Regions, where there are no *Wars*, nor Rumors of Wars, but where all is *peace*, Harmony, & Happiness.

If you will be so kind as to propose some Topic to write upon, in your next and at the same time give me *your* Sentiments upon it — I will endeavour to return you *mine*. Happening this Minute to open an Ames's Almanack for 1755 — the following Lines appeared *new* to me & thinking they may be so to you I will copy them —

> Who 'ere presum'd, till Franklin led the Way,
> To climb the amazing Highth of Heaven,
> And rob the Sky of it's tremendous Thunder;
> And leave the Clouds, with Winds & Tempests fraught,
> But Breath enough to shake the trembling Trees,
> And rock the Birds that pirch upon their Boughs.

You will doubtless see in the papers Gen[l]. Carlton's general Orders[2] at Chamblee Aug[t] 7. — *very blustering* — they appear to *me* ridiculous, give me *your* opinion — considering the present State of Affairs. How different his Conduct from that of my Lord Howe! You must know about fortnight ago M[r]. Nath[l]. Tracey went with a Flag of Truce from N York on board the Eagle in order to exchange some prisoners for those that were taken on board the Yankee Hero[3] — which he soon settled with his Lordship — & they are to be exchanged as soon as may be at Mblh'd. Then M[r]. T— presented L[d]. H. with a Letter. Is this from his *Excellency?* I believe it is he gave it me. I am heartily glad of it, I have

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[1] The Triennial Catalogue of 1776 was the first to be printed in pamphlet form. Previous catalogues, extending back to 1643, had been issued as broadsides. See the Publications of this Society, v. 334, 335.

The precise date of Cutler's death is not known, and is not recorded in the Quinquennial Catalogue. The latest reference to him in these letters is under date of 22 November, 1774 (p. 308, above).

[2] See Force, American Archives, Fifth Series, i. 987, 988.

[3] On 16 June, 1776, the Rev. Manasseh Cutler "Preached to the people at Sandy Bay [Gloucester], who were disconsolate on account of the fourteen men lately taken from them in a man-of-war. They were in the Yankee hero" (Life, Journals and Correspondence, i. 55). See also Force, American Archives, Fifth Series, i. 380, 727. The Yankee Hero was owned by Jackson, Tracey, and Tracey of Newburyport, of which firm Nathaniel Tracey (H. C. 1769) was a member. For a notice of him, see Mrs. E. Vale Smith's History of Newburyport, pp. 106, 107, 348, 349.

an high Opinion of him — I admire his personal Character — his Conduct during the last Campaign at Cambridge, shews that he is an able General. I long for a personal Acquaintance with him, but he is too scrupulous he ought to have rec^{d}. my Letter. Had I acknowledged his Title I should have given up all I am contending for. I do not pretend to say that America is *not* right. Have never enter'd into politics — but when there was talk of Commissioners for Peace — I entered into the Affair with a sincere desire of serving my King & Country and also the Americans for whom I have an high esteem & ever shall when I consider their kind Notice of my Brother.[1] I came out with *ample* powers or else I would *not* have come — am very sorry that I did not arrive before Independ-[en]cy was declared — but still more that I did not arrive before Genl Howe left Boston. If I had I dare say I could so have settled matters with Genl. Washington as to have gone myself *by Land* to philadelphia. I would have gone immediately to the Congress — and treated with them as the persons in whom the Americans trusted their publick Affairs — & then *I dare say I could have* accomodated the unhappy Contest between G Britain & the Colonies. But I am now afraid it is too late. As to the affair of Independency — it is more consistent with your principles & Conduct — than you were before. But as to foreign Alliances *I do not think* you 'll be able to obtain any for I am very well assured that the Court of G B have secured all the Courts in Europe on their side. I do not think that laying waste your Sea port Towns & destroying Lives & property will have the least Tendency to settle Animosities. If it must be decided by the Sword it must. But I am jealous *on which side* the Scale will turn. I wish it may soon be settled in an amicable Way &c &c &c &c. in this Way they convers'd for near two Hours. But before Mr. Tracey's Departure L^{d}. Howe open'd the Letter & said it was not from his Excellc^{y} but from his good Friend Doct^{r}. Franklin — he was extremely glad to receive it. D^{r}. F., says he, is my particular Friend — I esteem him as one of the *greatest* Men in the World — am much obliged to him for this Letter — &c &c — I think says Ld H. that your Congress are right in their Resolutions upon G^{l} Arnold^{s} Cartel[2] — *provided* Facts are as they are there stated, but I dare say they will find them to be otherwise. But the Canada Affairs are not in my Depart-ment — — Now my dear Friend — if all were of my Ld Howes Mind

[1] The elder brother of Lord Howe and of Sir William Howe was George Augustus, Viscount Howe, who was killed near Ticonderoga 6 July, 1758. See the Publications of this Society, vii. 250 *note*.

[2] See Journals of Congress (1823), i. 375, 403–406; Force, American Archives, Fifth Series, i. 158–162.

— how soon this unnatural Contest would be settled. But alass it is for the interest of too many to keep up the Ball — & while they swim they care not who sinks.[1]

If the above Scrawl is intelligible & will afford you any Satisfaction it will greatly rejoice

Your sincere Friend
N W APPLETON.

Monday PM.
Salem Augt 19. 1776.

The R-v-r-nd ELIPHALET PEARSON
Andover

NB It is worthy of Observation that a few days after the above Conference L^{d}. Howe sent a Letter directed to his Excellency General Washington with the Titles.

[*Addressed*]
Mr Eliphalet Pearson
p^{r} fav. } Andover
of Miss Holyoke }

XIII

SALEM Sept. 8. 1776.
Sabbath Eve past 10 °Clock.

DEAR FRIEND

I rec'd your agreable Epistle of 6^{t} inst. yesterday p Mrs Holyoke. Am very sorry to hear that your Mind, labours under any *particular* Disturbance at this time of *general* Calamity, when every rational person must be *anxious* for the Fate of his Country. If there is any thing in my power that can conduce to ease you of your Anxiety, you may be assured of my utmost Endeavours to do it, if you think proper to acquaint me with it.

At the time when I quoted those Lines on the great Franklin, I had no particular Reference to Electricity — it was meerly accidental my happening to open an old Almanack at that place. Please to propose your Subject in your next — and as I said in my last I will endeavour to give you my — you will not let me say — *poor* Abilities — because as you are pleas'd to write " such Apologies are ill suited to that *confiden-*

[1] See Franklin's Works (Bigelow's edition), vi. 21–33; Force, American Archives, Fifth Series, i. 482, 483, 727, 785, 980, 981, ii. 234, 274, 324.

tial candid Friendship" &c &c. Am sorry you have not seen G^{l}. Carltons *famous* Orders. If the Narrative respecting L^{d}. H & Mr T. afforded you any Entertainment I am really glad. *You wish* I could give you a particular Acc^{o}. of what has since past between G^{l}. W — & L^{d}. H on Long Island. *I* wish it was in my power, but it is not. The present General Acc^{o}. is confus'd. Time will perhaps afford us a full & *particular* one — last Night's post brings no News papers as there were none printed in N York. The best Acc^{o}. I can collect is — That after several skirmishings on Wednesday & Thursday — on Thursday Eve G^{l}. W. held a Council of War when it was agreed to abandon the Island *immediately*, without risqueing the whole Army, viz 10,000 men, being cut off from a Retreat the next Day — accordingly Orders were giving at 9 ° Clock & the Boats which lay ready on N York side to carry Reinforcements to the Island were ordered to carry them off. The whole was compleated by 3 ° Clock Friday Morn — & we only left two or three 32 pounders — that the G^{l}. himself was one of the last that came off. G^{l}. Sullivan fell into a Ditch & was taken prisoner — he is now gone to Philadelphia on his Parole for 10 Days he was allowed to tell the Enemy's Loss — vizt 1500 killed on the Field of Battle, 3 Field Officers & G^{l}. Grant are among the slain — 35 taken prisoners. Some say that G^{l}. Sullivan says our Loss is greater than theirs — others say *but* between 7 & 800 kill'd — it will be a great while before we know the *Truth* of *our* Loss. L^{d}. Howe has now got possession of the finest Island on the Continent which will afford them fine Winter Quarters. Fuel in plenty — 40000 inhabitants on it — & 80000 Head of Horn'd Cattle — the Island it is said raises as much Grain as the whole Colony of Connecticut. This is a very important Crisis. May "the Cause of *Truth, Virtue & Liberty* finally triumph." Let us wait with Patience the important Decisions of an all wise providence & be prepared for whatever may be our Lot — whither *Peace* or War — *Liberty* or Slavery. We have had the pleasure of *your Neice's* agreable Comp^{e} these 10 Days, she has in general carried herself well. But she has not broke herself of her Trick of *Winking* any more than her *Uncle* that of *snapping*. Hope when she returns home I shall be able to give you a *better* Acc^{o}. I dined with our Friend Parsons last Friday — he was on his Way from Watertown through Salem to Newbury. Madam Holyoke can inform you of M^{r}. Mascarene's Family's Health &c.

Thank you for your kind Wishes for your sincere Friend

NATH^{L}. W. APPLETON

"and all whom he holds dear."

My kindest Regards to Miss priscy.

PS. T Parsons informed me that last or this Week — the Corporation rechose M^r. Wadsworth[1] Tutor — as his Time of three Years was expired. There were two vizt. Doct^r. W— & D^r C — against him — D^r A & D^r E for him & the Rev^d. president gave it (to his great Honor) in M^r. W^s. Favour. So you may perceive the redoubtable M^r H— & his Croney Jimmy W — are not absolute in the Gov^t of the College.

[*Addressed*]

M^r. Eliphalet Pearson

Fav'd by Mad^m. Holyoke } in Andover

XIV

SALEM Wednesday Septr. 17. 1777.

MY DEAR FRIEND

It seems almost an Age since I had the Pleasure to see or hear from you. Our Friend Parsons whom I saw at Newbury last Week inform'd me that you had been ill but that you had got much better. I hope your Health will be restor'd & continu'd you. It is reported that you are to have the new School which is to be erected at Andover — & that you are *soon* to make Miss P–r–y H–e *happy*. No wonder then, you could write Theodore that you was very glad to hear that I was *alive* after what had happen'd. As to those Matters they will be more fully explain'd when We see each other, but when that will be is very uncertain — you do not travel this road now a'days oftener than if there was half a dozen 50 Gun Ships to intercept your Passage. But if you will venture to come yourself or send a Line I will insure you at 72 p^r C^t — tho' common Insurance is now 75 p^r C^t. This by M^rs. Holyoke who I suppose will return by the last of the Week — do write how you do — & conc^r the School &c. I have lately purchas'd me a manuscript Bible wrote on Parchment in old English Hand & vulgate Latin — with a N° of Abbreviations & Characters — suppose to be wrote about the Year 1400. I esteem it as a great Curiosity — it is to be sent to Portsmouth this Week

[1] John Wadsworth (H. C. 1762) was Tutor from 1770 till his death in 1777. In 1774 he was chosen a Fellow of the Corporation, of which body he was therefore a member at this time when he was re-elected Tutor. The other members of the Corporation were Samuel Langdon, President, John Hancock, Treasurer, and Nathaniel Appleton, John Winthrop, Andrew Eliot, and Samuel Cooper. John Hancock's "Croney Jimmy W——" was doubtless James Winthrop (H. C. 1769), who was Librarian from 1772 to 1787.

but when it returns should be very glad to have you see it. My time is now near expir'd with the Doct^{r}. and I expect to leave him in less than three Weeks — to go where? you will say. O! my dear Friend to launch into the wide World of Troubles & Sorrow. I cannot bear the Thought — it causes such Sensations to arise in my mind as make me dread the day when I must set out for myself — some of your advice at this time will be very acceptable to

Your sincere Friend

N W APPLETON.

My Respects wait on
Madam Holyoke.
Love to Miss Priscy & Betty Epes.
Tell Miss Epes that her Papa, Mamma, Brothers & Sisters were *all well* last Sabbath Even^{g}. Can you procure any such thing as Honey or Wax — if so do let me know.
Monday Septr 22^{d}. As the Weather has prevented M^{rs}. H. going as propos'd she intends sitting out this AM, altho' the Weather is not very agreable. As for Politics we are in great Suspence expecting to hear hourly some important News from both Armies. O that this Campaign might be the decisive one, & we soon enjoy Peace, Liberty & Happiness. Y^{r}.

NWA

[*Addressed*]

Mr Eliphalet Pearson
Andover

Fav'd by
Mrs Holyoke

XV

June 12, 1778

MY DEAR FRIEND

I hope this may hail you, the *Acting* Preceptor of Phillips School. We have been favoured by M^{r}. Phillips with the Particulars of that unfortunate Affair which so lately happen'd in your Parish;[1] it is not only a great Misfortune to our worthy Patriot, & to those Families who are depriv'd of their Heads; but is a very great Publick Loss. I do not understand that any of your Family rec^{d}. any Damage from the violence of the Shock which no doubt considerably affected you. Our Friend M^{r}. Clarke has gone this Week to Salem; to bury his Grandfather, the famous

[1] An explosion at Judge Phillips's powdermill in June, 1778, blew up the building and killed three men.

Deacon Pickering.[1] He is to be ordained 8th July at which time I depend upon having the Pleasure of seeing you here. My best Regards to Madam Holyoke, to Miss Priscy &c. Mrs. Mascarene has been troubled with a Cough this Week past. Their whole time is employed in preparing for, & attending on Mr. Shirley & Lady, Miss Rock; Miss Yeaden Waiting Maid, Mon^{r}. Louis le Valet de Chambre, Mr. James the Footman & Jem the Lacquey.

Mr. M. as usual. Cousin Betsy very well; I do not know whither they will write by this Oppo. When I was at Andover you mentioned your great Want of a tooth-Brush; I take this Oppo. to present you with two Brushes for that Purpose, likewise a small Box about half full of Dentifrice, trusting that they will be acceptable

I remain

Your sincere Friend

N. W. APPLETON.

NB. PS. the Presidents Lady[2]
broke out with the Small Pox
last Wednesday at Cambridge.

Mr. Preceptor.

Perhaps Smoak is necessary as I now attend two Patients with the S. Pox.

[*Addressed*]

M: Eliphalet Pearson
Preceptor of Phillips School:
Andover.

Fav'd by
M: S. Phillips

XVI

BOSTON March 23 1782

MY DEAR FRIEND

After acknowledging the favor of yours of yesterday let me heartily congratulate you upon being made a happy *Parent;* am very sorry that our good Cousin your amiable Lady is so unwell & is not able to make a Nurse for her Baby. Immediately after perusing your Letter I sent my Servant Girl being somewhat unwell myself & not daring to be out in the Eves Air with Mr. Bush to Willis & from thence to Mrs. Masca-

[1] This was Timothy Pickering, father of the statesman of the same name.

[2] President Langdon married Elizabeth Brown, daughter of the Rev. Richard Brown (H. C. 1697) of Reading, Massachusetts (New England Historical and Genealogical Register, xxx. 33, 34).

rene's the result you will learn of him. Not recollecting but *one* Nurse that wanted a Place tho' many want to take a Child I applied this Morn^g^ to M^rs^. Greenough with whom she lives. She is about 23 Years of Age — very good temper, is not known now to have or ever to have had *any Disorder* that can cause Uneasiness, her Milk is good, but it is 12 months old. She is very clean & careful about the Child, *but* is a *Slut* respecting herself — is under some Engagements to go to Roxbury. I did not see her but purpose it before M^r^. Bush leaves the Town. M^rs^. Mascarene will inform you the Result of her Enquiries. M^rs^. Appleton joins me in Love to you & M^rs^. Pearson — pray kiss the little Bantling for me. You cannot doubt how much Pleasure your Happiness affords me & how strongly I feel myself interested in all your Concerns. That M^rs^. P[1] may speedily recover her Health; that little *Polly* may have an excellent Nurse & that all of You may enjoy every Felicity in each other that the Connection ever affords is the sincere

Wish of your affectionate Friend

N. W. APPLETON.

NB. Mr Cutting has not returned
my Ainsworth. We are all very well. The Mass^a^. Med: Soc^y^ are to meet 17 April. My Br^o^. Jno. sailed for S^t^. Thomas's last Monday.

XVII

BOSTON Feby. 12°. 1784.

MY DEAR FRIEND

On Monday last the supreme Ruler of the Universe was pleased to take from us by Death, my aged pious & reverend Grandfather, in the 91st Year of his Age & 67 of his Ministry. Our Loss is his Gain — why then ought we to mourn? The best Respect we can pay is to imitate his pious, catholic & charitable Conduct thro a long & useful Life.

By this Opp^o^. I send you one of M^r^. Clarke's[2] Sermons upon the Death of Dr Cooper, also the Magazine[3] for January. The Editors at

[1] Mrs. Pearson died six days later, 29 March, 1782.

[2] John Clarke, at this time Junior Pastor of the First Church in Boston, being the Rev. Dr. Chauncy's colleague. He was of the Class of 1774, and has already been alluded to as a grandson of Deacon Pickering (pp. 321, 322) and as the minister who later delivered the funeral discourse on Appleton himself (p. 290).

[3] The "Boston Magazine, Printed and Published by Norman & White, at their Office in Marshall's Lane, near the Boston Stone." The first number was that for November, 1783. The January, 1784, number contains letters from

present are obliged in some measure *to conform* to the taste of the Subscribers. If we could have a few more good *original* pieces — there would be new Subscribers & we need not mind, the little ones. Cannot you favour us with some productions from Andover? some Observations in reply to *Susannah & Fenelon* upon Enigmas.

At present I am confined with a bad Cold.

Your Friend & Serv[t]

N. W. APPLETON.[1]

[*Addressed*]
M[r] E. Pearson

Mr. ADAMS SHERMAN HILL of Boston and Mr. THORNTON MARSHALL WARE of Fitchburg were elected Resident Members, and Mr. HERBERT PUTNAM of Washington, D.C., a Corresponding Member.

"Fenelon" and "Susanna" approving the inclusion of enigmas and in opposition to an earlier letter by "Observator," who had objected to them. "Fenelon" declares that "the enigmatical lists are mostly written by the Ladies, and they are not only a necessary relaxation from the fatigue of attending to domestic concerns, but an amusement for leisure hours" (i. 47, 98, 99).

[1] The character of Osgood and Farrington's shop (pp. 295, 298), its situation, and the situation of their "distill-house," are uncertain. A deed in the Middlesex Registry (lxxvii. 32) shows that a piece of land passed on 9 August, 1774, from Elizabeth Clark to Peter Osgood and Thomas Farrington. The boundaries are not given in such fashion as to determine precisely the situation of the lot; but in 1751 Elizabeth Clark inherited from her father, James Clark, an "old homestead and an acre of land" which is described as "Bounded on townsway, north, Daniel Barrett, Andrew Boardman, and Francis Foxcroft, west; Francis Foxcroft, south; and rangeway east" (Middlesex Probate Files, no. 3042). This must have been on the southwest corner of what are now Holyoke and South Streets, and it was doubtless part of this land that passed to Osgood and Farrington in 1774.

Thomas Farrington served with honor in the Revolution, and was Selectman of Cambridge in 1778–79, Assessor in 1779, Town Clerk in 1780–82, and Representative in 1780 (Paige's History of Cambridge, pp. 429, 461, 465, 467, 468). Later he moved to Boston, and at his death, 19 January, 1807, was living in Green Street (Columbian Centinel, 21 January, 1807). From a notice of Dr. Redford Webster, a Boston druggist, in the Proceedings of the Massachusetts Historical Society (i. 490), it appears that Dr. Webster sold out his business to Thomas Farrington soon after April, 1804, and this suggests that Farrington's business in Cambridge had likewise been that of a druggist.

For the reference to James Clark's will and to Osgood and Farrington's deed, and for the identification of the lots of land concerned, I am indebted to the kindness of Mrs. S. M. Gozzaldi, of Cambridge.

MARCH MEETING, 1904.

A STATED MEETING of the Society was held at No. 25 Beacon Street, Boston, on Thursday, 24 March, 1904, at three o'clock in the afternoon, the President, GEORGE LYMAN KITTREDGE, LL.D., in the chair.

The Records of the last Stated Meeting were read and approved.

The CORRESPONDING SECRETARY reported that letters had been received from Mr. ADAMS SHERMAN HILL of Boston, and Mr. THORNTON MARSHALL WARE of Fitchburg, accepting Resident Membership, and from Mr. HERBERT PUTNAM of Washington, D. C., accepting Corresponding Membership.

Mr. HENRY W. CUNNINGHAM stated that while recently looking through the Suffolk Court Files, he had stumbled on some doggerel verses apparently derogatory of Benjamin Faneuil, who was born in 1701, and died in 1785.[1] The verses, which are undated, are as follows:

> Curse be on all those that walk upon toes
> that wont defend their friends from fear of their foes[2]
> Blest be all those who with good ammunition
> Does preserve us our Charter & all our Provision

[1] Benjamin Faneuil, the elder, married Anne Bureau in 1699, settled at New Rochelle, New York, and had eleven children, of whom the following survived: (i) Peter, died unmarried in 1743; (ii) Benjamin, married Mary Cutler, daughter of the Rev. Timothy Cutler (H. C. 1701), and died in 1783; (iii) Anne, who married the Rev. Addington Davenport; (iv) Mary, who married Gillam Phillips; (v) Susanna, who married James Boutineau; (vi) Mary Anne, who married John Jones. See these Publications, i. 367, 368.

Benjamin and Mary (Cutler) Faneuil had three children: (i) Benjamin; (ii) Peter; (iii) Mary, who married George Bethune (see p. 79 *note*, above).

[2] In the manuscript, a footnote has the word "Irish."

Curse rest on old Fan——l & all his french tribe
that favours him in his Actions by reason of a bribe
And may we good fellows prove all so loyall & true
that we may have his head wheat & all theirs Yt. acts so
And he that to his french actions will give any ear
He headless shall be as quickly youl hear
Yr neck or nothing alias
Franck Scammon
Capt. Logwood & Ivory [1]

The Rev. Dr. EDWARD H. HALL read the following paper on —

THE ORIGIN OF CONGREGATIONALISM.

The natural result of the separation of the Puritan clergy from the English church, as before of Protestantism from Romanism, was the speedy appearance of many parties under many different names. Nothing is more interesting in those early hours, than to follow these vague gropings of the Separatists after their new ecclesiastical position and after the title they were henceforth to bear in the Christian world. The mother-church, in each case, regarded these sectarian divisions as of itself a sufficient brand upon the whole spirit of disunion; while to other eyes, as to those of Milton, they were "but the throes and pangs that go before the birth of reformation." [2] Without entering upon this question, it has a certain interest for us, amid the swift succession of party slogans, to note as nearly as possible the first appearance of that special name which Puritanism has borne so conspicuously in New England. So far as I have seen, those most concerned in the matter have shown singularly little interest in fixing the psychological moment when the epithet Congregationalism was found necessary to characterize the new movement. Historians of the faith have evidently thought this too trivial a matter to trouble themselves with. They have allowed their Church to issue unannounced from out of Puritanism, Independency, Brownism and the rest, without claiming for it even the dignity of a legitimate birth. This is no rec-

[1] Suffolk Court Files, no. 26241.

[2] Reason of Church Government urged against Prelacy, book i. chap. vii.

ondite theme, but perhaps you will agree with me that it is worthy a moment's thought.

The first stage of dissent in England was naturally Presbyterianism. From bishop to priest was a simple step, allowing an easy appeal to the primitive apostolic church, where bishop and presbyter were synonymous terms, and the Bishop (with a large B) was the result of a slow process of evolution. The first presbyterian church seems to have been organized in 1572, and down to the Westminster Assembly and beyond, Presbyterians were in great ascendancy in the Puritan ranks.[1] The earliest formal separation from the mother-church recorded by history was under the lead of Robert Browne, about 1582. Browne, who was a graduate of Cambridge, and domestic chaplain of the Duke of Norfolk, attempted to gather a congregation after the pattern of primitive Christianity; declaring each community an independent body, and denying that the English hierarchy was a true church or its ministers rightly ordained. He was driven to Holland about 1586, returning himself finally to the English fold, while his followers continued the movement for some years both in Holland and in England. Robinson and his flock were known at first under the name of Brownists.[2] Meantime the Brownist church was not without its separatists. The keen eye of a modern historian detects five distinct phases of the original movement, under the successive names of Brownism, Barrowsism, Johnsonism, Ainsworthism, Robinsonism.[3] In England, at the same time, the movement seemed altogether uncertain what to call itself. They were content to be simply dissenters, not knowing for how long or how short a period their separation might last. Their adversaries, indeed, were quite ready to supply them with any number of appropriate titles: "Because we are afraid of joining with the church in all her rites and ceremonies," write the two ministers imprisoned in Newgate in 1572, "we are branded with the odious names of Donatists, Anabaptists, Aerians, Arians, Hinckfeldians, Puritans, &c."[4] When Milton returns from Italy, in 1641, he finds the name of Puritan disappearing in this cloud of opprobrious appella-

[1] Neal, History of the Puritans, i. 126, 488.
[2] *Ibid.* i. 149, 204, 242.
[3] Dexter, Story of the Pilgrims, p. 145.
[4] Neal, History of the Puritans, i. 122.

tives. "Forsooth if the prelates be put down, a deluge of innumerable sects will follow; we shall be all Brownists, Familists, Anabaptists. For the word Puritan seems to be quashed, and all that hitherto were counted such, are now Brownists."[1] It is not quite clear when the name Independent came into vogue. Punchard finds the first mention of it in this entirely incidental form, in a tract of 1611: "Where the congregation giveth its free consent in its own government, there certainly it is an entire and independent body politic."[2] By the time of the Westminster Assembly (1643–1649) Independent seems to have established itself as the familiar name, accepted by nearly all non-Presbyterian separatists or non-conformists.[3]

In 1620 the Holland refugees made their further move to our own shores, followed soon by the colonists of Massachusetts Bay. Neither in England, as we have seen, nor in Holland had they up to this time originated any common title for their non-conformism, although sufficiently restive under the various sobriquets bestowed by their opponents. Among their many pressing solicitudes, as they enter a new continent, that of a name for their religious enterprise does not seem to have much concerned them. If they are already Congregationalists they do not appear to know it. As they organize their several churches, destined to the distinguished honor in far-off times of being the First-Churches of the older cities or villages of New England, we look in vain for any distinctive denominational title. In Plymouth, in Salem, in Charlestown, in Boston, in Dorchester, in Cambridge, so far as we can judge from the scanty records or primitive covenants remaining, they are content to call themselves simply "the church of Christ," "these godly people" (Dorchester), or, as Bradford says of his Plymouth congregation, "as the Lord's free people, they joined themselves . . . into a church estate, in the fellowship of the Gospel."[4]

Finding nothing in the churches to reward our search for an ecclesiastical name, let us turn next to the synods. Such gatherings, unfortunately, were soon found necessary, and New England

[1] Reason of Church Government urged against Prelacy, book i. chap. vi.
[2] History of Congregationalism, iii. 359.
[3] Neal, History of the Puritans, i. 469.
[4] Young, Chronicles of the Pilgrim Fathers, p. 21.

had from an early date its Councils of Nicæa, Constantinople, Ephesus, Chalcedon. The first came together in Newtowne, in 1637, under the excitement of the Antinomian controversy. The second was called also at Newtowne, or Cambridge, in 1643, to consider dangerous encroachments in the quiet town of Newbury. All the elders of the country assembled, to the number of about fifty, holding their sessions in the academic building, and contenting themselves with the inexpensive diet of the Commons. Winthrop says:

> They sat in the college, and had their diet there after the manner of scholars' commons, but somewhat better, yet so ordered as it came not to above sixpence the meal for a person. Mr. Cotton and Mr. Hooker were chosen moderators. The principal occasion was because some of the elders went about to set up some things according to the presbytery, as of Newbury, etc. The assembly concluded against some parts of the presbyterial way, and the Newbury ministers took time to consider the arguments.[1]

In neither of these synods do the assembled elders find reason to assume any more distinctive title than the church of Christ. In 1646 a third synod was gathered, again at Cambridge, which prolonged its sessions, quite like its great prototype at Trent, year after year, till 1648, when it gave to the New England colonists their first Platform of Church Discipline. This was a noteworthy epoch in our religious history, and although there was much discussion at first as to the authority of the civil magistrates to call a synod, and as to the degree of authority which any body of clergy had to impose its faith upon the others, and much pains was taken to prove that churches may be strictly equal, and yet possess the right to "church communion one with another" (Chap. XV. 1), the Cambridge Platform has held its ground to this day as the first authoritative statement of New England Puritanism.

But what do the churches that assume such authority call themselves? Are they still unconscious of any common title, or still content to stand before the world without a distinctive name? No. The members of the Cambridge Synod seem to have felt at last that something definite was needed; and in Chap. II. 5, 6 of the Platform we read:

[1] History of New England (1853), ii. 165.

The state of the members of the militant visible church, walking in order, was either before the law . . . economical, that is in families; or under the law, national; or since the coming of Christ, only congregational (the term *independent*, we approve not): therefore neither national, provincial, nor classical. A congregational church is by the institution of Christ a part of the militant visible church, consisting of a company of saints by calling, united into one body by an holy covenant, for the publique worship of God, and the mutual edification of one another in the fellowship of the Lord Jesus.[1]

From this hour then, the New England colonists are Congregationalists; for so far as I can see, this is the first official announcement of that ecclesiastical name. But from what source, we may further ask, did the name come, and what determined its apparently unpremeditated selection for the Cambridge Platform? Here again there are interesting indications, not unfamiliar, but worth citing as we pass. It is to be said in general that in various writings of this period, especially of Shepard, Cotton, and other members of that group, the term "congregational way" had been coming into vogue, as expressing better than any other the church discipline in which the congregation plays the chief rôle. The question had apparently been under discussion among these fathers, both in England and in America. Something more definite appeared in a book published in England in 1648, but written two or three years earlier, from the hand of John Cotton, entitled "The Way of Congregational Churches Cleared &c." It was in answer to a bitter assault upon Independents, Brownists, Anabaptists, *etc.*, and Cotton declares at the outset that he has no defence to make for Browne, or for Barrow. He then goes on to say:

The way of the Churches in *New-England* is neither justly called a Sect, nor fitly called Independency. . . . Nor is Independency a fit name of the way of our Churches. For in some respects it is too strait, and in others too large; it is too strait, in that it confineth us within our selves. . . . Again, . . . Independency stretcheth it self too largely. . . . For it is compatible to a Nationall Church, as well as to a Congregationall. . . . Even . . . the Sea of *Rome* is Independent. . . .

[1] Mather, Magnalia (1853), ii. 213. See the original Cambridge Platform in the American Antiquarian Society's Library.

Wherefore if there must needs be some note of difference to decypher our estate, . . . I know none fitter . . . then to denominate theirs Classicall [classis seem to have been the term in vogue for presbytery], and ours Congregationall.[1]

The close resemblance between this and the phraseology and animus of the Platform is certainly suggestive. Not that this is a solitary instance of the use of the term before the Platform. Shepard's Treatise on Liturgies, published apparently in 1645, has the name "congregational church" repeatedly. Hooker, in his Survey of the Summe of Church Discipline (London, 1648), introduces the name in his Preface, though not using it afterwards, and showing none of Cotton's aversion to the term Independency, — indeed, writing an entire chapter in its defence. Winthrop, on the other hand, never uses the word (and rarely the word Independency, so far as I have noticed[2]), nor Bradford, nor Winslow. Robinson seems never to have heard of Congregationalists, though showing quite as much antipathy as Cotton to the name Brownists, and exhorting his followers, in his familiar farewell advice, by "all means to avoid and shake off the name of Brownist, being a mere nickname and brand to make religion odious."[3]

Considering these facts, and knowing Cotton's influence among the New England churches, and his active participation in the wording of the Cambridge Platform, it would seem no hazardous conclusion that in this tract we have the term which we have sought, in its actual incipiency.

I am far from claiming this as a momentous era in the world's religious history. The difference between Congregationalism and Independence is, to our thought, almost infinitesimal. Doctrinally they recognize absolutely the same creed, in so far as any creeds are recognized to-day in primitive form. In point of discipline, the real distinction is simply the keener instinct of fellowship, born apparently of the American wilderness, which leads the Congregational churches to seek each other's counsels, and unite together in local associations. Both Pilgrim and Puritan felt the

[1] Way of Congregational Churches Cleared (1647), i. 10, 11.
[2] History of New England, ii. 91.
[3] Young, Chronicles of the Pilgrim Fathers, p. 397.

longing for mutual sympathy; neither Puritan nor Pilgrim wished to emphasize aggressively their independence of the mother church.

No more would I put this forward as a historical discovery. Writers enough (Palfrey and others), have recognized Cotton's agency in the Cambridge Platform. Hutchinson says of Cotton, in 1750, or thereabouts, "His praise was in all the churches, as the principal projector of the plan of government of the New England churches, which from that time took the name of Congregational."[1] I am only trying to save from forgetfulness whatever significance may lie even in so insignificant an ecclesiastical change as this from Independent to Congregationalist. However it may appear to our later ears, or to the world at large, to the Colonist of those days there were evidently stern meanings hidden under this innocent term. Let me quote from a pamphlet written by the Rev. Ebenezer Chaplin, of Millbury, Massachusetts, and published in Boston in 1794:

> If churches are supposed to have a right to do everything they have power to do, enquiry is wholly at an end, what is their right and power, because on this supposition they cannot do anything wrong . . . and this seems to be the real sentiment of some. These however call themselves Congregationalists, and sometimes will say they are Independents, as if both were the same thing. But the idea that I have conceived of these two denominations by examining the writings of the founders of Congregationalism, is that they are as different one from another, as the system of religion and polity by Moses was from the confusion of Babel. Those of Babel scattered into parties, and every person or party did as they pleased, independent of each other. . . . The system of polity by Moses was a well-connected scheme. This is my idea of Congregationalism; it is a common scheme, and if well adhered to, would produce great beauty and order.[2]

The new name meant something, then, to our fathers, and had much to do with the harmony of their church life. At any rate, when the hour came for announcing to the world their ecclesiastical position, this is the title which they chose, and as such it is

[1] History of Massachusetts (1765), i. 419.

[2] Congregationalism, as contained in the Scriptures, explained by the Cambridge Platform, p. 5.

to be duly honored. To trace back Congregationalism, as its historians are fond of doing, through several bulky volumes, to the earliest English dissenters, seems to me quite as if Palfrey were to begin his History of New England, or Bancroft his History of the United States, with the times of the Gracchi, or of Rienzi the Tribune. If Congregationalism is important enough to the world to have its genealogy determined at all, if it is to be granted any pedigree, or any escutcheon, it would seem to have been born, not in England or Holland, but in the neighboring city of Cambridge; and its father, if it had any one founder, was not John Robinson, still less Robert Browne, but John Cotton, of the First Church in Boston.

The Rev. HENRY A. PARKER made the following communication on —

THE REVEREND JOSSE GLOVER AND THE BOOK OF SPORTS.

Although the Rev. Josse Glover never reached New England, having died at sea on the way, the interest which attaches to him for his introduction of printing into this country may excuse me for calling attention once more to a document which throws some light on the Rev. Mr. Glover, about whom little is known. His Christian name has been the subject of much controversy and has been variously given as Jesse, Joseph, Josse, Jose, Jos., Joss, and Joas.[1] The subject was treated exhaustively and convincingly as long ago as 1875 by the late J. Hammond Trumbull.[2] Mr. Trumbull remarked:

The strongest evidence I have found for *Jesse* is in the printed Calendar of British State Papers (Dom. series, 1634–35) in the abstracts

[1] See Savage, Genealogical Dictionary, ii. 262; Pope, Pioneers of Massachusetts, p. 189; Young, Chronicles of Massachusetts, p. 553 *note;* Sibley, Harvard Graduates, i. 208, 209; Glover Memorials, p. 564; J. H. Trumbull, in T. Lechford's Plain Dealing (1867), p. 123 *note;* New England Historical and Genealogical Register, xxiii. 135–137, xxx. 26–28, xlvii. 499–504; Waters, Genealogical Gleanings in England, i. 33; Paige, History of Cambridge, pp. 559, 560; Publications of this Society, iii. 419 *note.*

[2] Proceedings of the American Antiquarian Society, 28 April, 1875, pp. 5–10. My attention was called to this article by Mr. Albert Matthews.

of a petition addressed to Archbishop Laud by Edward Darcey, patron of the living of Sutton, for the appointment of a successor to "Jesse Glover, clerk," and of Laud's answer to this petition, in which this name is repeated (p. 355, doc. 45).

Suspecting an error, Mr. Trumbull applied to William Douglas Hamilton, the then editor of this series of the Calendars, and learned that "the name is clearly written . . . *Josse* Glover." As, however, the document has never been printed in full, and as anything relating to Mr. Glover is of interest, I venture to offer to the Society a copy of the original. It consists of three parts, each in a different handwriting, and is as follows:

To the most reverend Father in God ye Lord Arch-
-B^pp^ of Canterbury his Grace primate & Metropolitan of all
England
The humble peticon of Edward Darcey Esqr Patron of the
Parsonage of Sutton in the county of Surrey.

Humbly sheweth to your grace, That ye pet^r^ vnderstandinge that Iosse Glover Clerke the now incumbent of the said Parsonage refused to publish the booke intitled The Kinges Ma^tes^ Declaracon to his Subcts concerninge lawfull sportes to bee vsed, did in his desire to have due obedience given to the royall comaunde of his sacred Matie cause the same booke to bee published in the said Church by a neighbo^r^ Minister And whereas the said Mr Glover for his contempt in that behalfe and for other inconformities is and standes suspended by lawfull authoritie ab officio et beneficio by reason whereof the said Cure is left without a Pastor.

The pet^r^ humbly praies, That yor grace will give him leave to nominate an able and conformable minister to supply the said Cure vntill the said Glover shall either through his conformity bee restored, or otherwise bee deprived of the said Parsonage

And ye pet^r^ (as in duty bound)
shall daiely pray etc [1]

Decemb: 12.
1634

If this Peticon^rs^ meaning be to haue another of his Nominacõn onely to supplye ye Cure, during Josse Glouers Suspension, it belongs to ye Ld^e^ B^p^ of Winston or his Chancello^r^ to make ye Substitucõn, to whom

[1] So far the document is in the hand of Darcey or his agent. What follows, down to Laud's signature, is in a different hand, doubtless that of Laud's clerk.

I leaue it. But if his meaning be, y^t^ Mr Glouer hath any purpose to leaue ye Benefice, he must resigne it into ye handes of ye Diocesan, and then Mr Darcye as Patron may present. But for my self it noe waye concernes me to meddle wth it.

W: CANT.[1]

[*Endorsed*]
Mr Darcies peticon ab^t^
Mr Glouer [2]

If this Rector of Sutton is the emigrant, as seems certain, this document gives us some additional knowledge as to his troubles in England; and we find that, as in so many other cases, the Book of Sports was a stumbling block to him.

This Book of Sports, so often unfavorably mentioned by our emigrant clergy, being sometimes greatly misrepresented and commonly misunderstood, some account of it may interest the Society. Book, in the modern sense, it was not, though the original printed copy in the final extended form as issued by King Charles, contrived somehow to sprawl over nineteen pages. In this form it takes only some ten or twelve minutes to read slowly aloud, as one would read a Thanksgiving Proclamation. It is reproduced in Rushworth,[3] Wilkins,[4] and in two recent collections of documents; but those who have not happened to look for it are apt to imagine that it was a treatise on athletics. Indeed Mr. L. O. Pike, an English lawyer, says of King James: "He also wrote a treatise in favour of permitting sports and pastimes on Sundays," [5] — a very queer phrase for one who has read it, to apply to the Declaration. Gardiner in his History of England gives a good account of this matter, though the requirements of proportion do not allow him to go much into detail. The account in Heylyn's Cyprianus Anglicus[6] is longer and also good.

[1] This is, of course, Laud's own signature.

[2] Vol. cclxxviii., no. 45. The endorsement is in the same hand that wrote the second part of the document. The error of "Jesse" for "Josse" was noted in a recent visit to the Public Record Office by Mr. Albert Matthews, to whom I am indebted for a copy of the original document.

[3] Historical Collections (1680), ii. 193–196.

[4] Concilia Magnæ Britanniæ et Hiberniæ (1737), iv. 483, 484.

[5] History of Crime in England, ii. 143.

[6] Cyprianus Anglicus: or, the History of the Life and Death of William Laud. Editions were printed in 1668 and 1671.

This is the famous Book of Sports in its last form, as issued by King Charles I.:

THE KINGS
MAIESTIES
DECLARATION to
His Subiects,
CONCERNING
lawfull SPORTS to
bee vsed.

[Vignette.]

Imprinted at LONDON by
Robert Barker, Printer to the Kings
most Excellent Maiestie: And by
the Assignes of *Iohn Bill.*

M. DC. XXXIII.[1]

¶ By the King.

OVr Deare Father of blessed Memory, in his returne from Scotland comming through Lancashire, *found that his Subiects were debarred from Lawful Recreations vpon Sundayes after Euening Prayers ended, and vpon Holy dayes: And Hee prudently considered, that if these times were taken from them, the meaner sort who labour hard all the weeke, should haue no Recreations at all to refresh their spirits. And after His returne, Hee farther saw that His Loyall Subiects in all other parts of His Kingdome did suffer in the same kinde, though perhaps not in the same degree: And did therefore in His Princely wisdome, publish a Declaration to all his louing Subiects concerning lawfull Sports to be*

[1] The title-pages are alike for James's and Charles's Declarations, except that James's reads:

Printed by Bonham Norton,
and Iohn Bill, Deputie Printers
for the Kings most Excellent
Maiestie.
M. DC. XVIII.

The back of the title in each edition is occupied by the royal arms. The Boston Public Library has a good copy of both the Declarations.

vsed at such times, which was printed and published by His royall Commandement in the yeere 1618. *In the Tenor which hereafter followeth.*[1]

By the King.

WHEREAS vpon Our *returne the last yere out of Scotland, We did publish our Pleasure touching the recreations of Our people in those parts vnder Our hand: For some causes Us thereunto moouing, Wee haue thought good to command these Our Directions then giuen in* Lancashire *with a few words thereunto added, and most appliable to these parts of Our Realmes, to bee published to all Our Subiects.*

Whereas Wee did iustly in Our *Progresse through* Lancashire, *rebuke some Puritanes and Precise people, and tooke order that the like vnlawfull carriage should not bee vsed by any of them hereafter, in the prohibiting and vnlawfull punishing of Our good people for vsing their lawfull Recreations, and honest exercises vpon Sundayes and other Holy dayes, after the afternoone Sermon or Seruice: Wee now finde that two sorts of people wherewith that Countrey is much infected, (Wee meane Papists and Puritanes) haue maliciously traduced and calumniated those Our iust and honourable proceedings. And therefore lest Our reputation might vpon the one side (though innocently) haue some aspersion layd vpon it, and that vpon the other part Our good people in that Countrey be misled by the mistaking and misinterpretation of Our meaning: We haue therefore thought good hereby to cleare and make Our pleasure to be manifested*[2] *to all Our good People in those parts.*

It is true that at our first entry to this Crowne, and Kingdome, Wee were informed, and that too truely, that Our County of Lancashire *abounded more in Popish Recusants then any County of England, and thus hath still continued since to Our great regreet, with little amendmẽt, saue that now of late, in Our last riding through Our said County Wee find both by the report of the Iudges, and of the Bishop of that diocesse, that there is some amendment now daily beginning, which is no small contentment to Vs.*

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[1] This introduction by Charles is divided from the reprint of his father's Declaration by an ornamental engraving, heading the next page, representing between two thistles, an altar, before the centre of which, kneeling towards the left, is a crowned figure of a man holding a harp. The reprint of the Declaration of 1618 following differs from the original excepting occasionally in spelling and capitalization, only in the two words hereafter noticed, and of course the omission of "God save the King" at the end.

[2] In James's Declaration this word is "infested."

The report of this growing amendment amongst them, made Vs the more sorry, when with Our owne Eares We heard the generall complaint of Our people, that they were barred from all lawfule Recreation, & exercise vpon the Sundayes afternoone, after the ending of all Diuine Seruice, which cannot but produce two euils: The one, the hindering of the conuersion of many, whom their Priests will take occasion hereby to vexe, perswading them that no honest mirth or recreation is lawfull or tolerable in Our Religion, which cannot but breed a great discontentment in Our peoples hearts, especially of such as are peraduenture vpon the point of turning; The other inconuenience is, that this prohibition barreth the common and meaner sort of people from vsing such exercises as may make their bodies more able for Warre, when Wee or Our Successours shall haue occasion to vse them. And in place thereof sets vp filthy tiplings and drunkennesse, & breeds a number of idle and discontented speeches in their Alehouses. For when shall the common people haue leaue to exercise, if not vpon the Sundayes & holydaies, seeing they must apply their labour, & win their liuing in all working daies?

Our expresse pleasure therefore is, that the Lawes of Our Kingdome, & Canons of Our Church be aswell obserued in that Countie, as in all other places of this Our Kingdome. And on the other part, that no lawfull Recreation shall bee barred to Our good People, which shall not tend to the breach of Our aforesaid Lawes, and Canons of Our Church: which to expresse more particularly, Our pleasure is, That the Bishop, and all other inferiour Churchmen, and Churchwardens, shall for their parts bee carefull and diligent, both to instruct the ignorant, and conuince and reforme them that are mis-led in Religion, presenting them that will not conforme themselues, but obstinately stand out to Our Iudges and Iustices: Whom We likewise command to put the Law in due execution against them.

Our pleasure likewise is, That the Bishop of that Diocesse take the like straight order with all the Puritanes and Precisians within the same, either constraining them to conforme themselues, or to leaue the County[1] *according to the Lawes of Our Kingdome, and Canons of Our Church, and so to strike equally on both hands, against the contemners of Our Authority, and aduersaries of Our Church. And as for Our good peoples lawfull Recreation, Our pleasure likewise is, That after the end of Diuine Seruice, Our good people be not disturbed, letted, or discouraged from any lawful recreation, Such as dauncing, either men or women, Archery for men, leaping, vaulting, or any other such harmelesse Recreation, nor from hauing of May-Games, Whitson Ales, and*

[1] In James's Declaration this word is "Countrey."

Morris-dances, and the setting vp of May-poles & other sports therewith vsed, so as the same be had in due & conuenient time, without impediment or neglect of Diuine Seruice: And that women shall haue leaue to carry rushes to the Church for the decoring of it, according to their old custome. But withall We doe here account still as prohibited all vnlawfull games to bee vsed vpon Sundayes onely, as Beare and Bullbaitings, Interludes, and at all times in the meaner sort of people by Law prohibited, Bowling.

And likewise We barre from this benefite and liberty, all such knowne recusants, either men or women, as will abstaine from comming to Church or diuine Seruice, being therefore vnworthy of any lawfull recreation after the said Seruice, that will not first come to the Church, and serue God: *Prohibiting in like sort the said Recreations to any that, though conforme in Religion, are not present in the Church at the Seruice of* GOD, *before their going to the said Recreations. Our pleasure likewise is, That they to whom it belongeth in Office, shall present and sharpely punish all such as in abuse of this Our liberty, will vse these exercises before the ends of all Diuine Seruices for that day. And We likewise straightly command, that euery person shall resort to his owne Parish Church to heare Diuine Seruice, and each Parish by it selfe to vse the said Recreation after Diuine Seruice. Prohibiting likewise any Offensiue weapons to bee carried or vsed in the said times of Recreations. And Our pleasure is, That this Our Declaration shall bee published by order from the Bishop of the Diocesse, through all the Parish Churches, and that both Our Iudges of Our Circuit, and Our Iustices of Our Peace be informed thereof.*

Giuen at Our Mannour of Greenwich the foure and twentieth day of May, in the sixteenth yeere of Our Raigne of England, France and Ireland, and of Scotland the one and fiftieth.

NOw out of a like pious Care for the seruice of God, and for suppressing of any humors that oppose trueth, and for the Ease, Comfort, & Recreation of Our well deseruing People, Wee doe ratifie and publish this Our blessed Fathers Declaration: The rather because of late in some Counties of Our Kingdome, Wee finde that vnder pretence of taking away abuses, there hath been a generall forbidding, not onely of ordinary meetings, but of the Feasts of the Dedication of the Churches, commonly called Wakes. Now Our expresse will and pleasure is, that these Feasts with others shall bee obserued, and that Our Iustices of the peace in their seuerall Diuisions shall looke to it, both that all disorders there may be preuented or punished, and that all neighbourhood and freedome, with

manlike and lawfull Exercises bee vsed. And Wee farther Command Our Iustices of Assize in their seuerall Circuits, to see that no man doe trouble or molest any of Our loyall and duetifull people, in or for their lawfull Recreations, hauing first done their duetie to God, and continuing in obedience to Vs and Our Lawes. And of this Wee command all Our Iudges, Iustices of the Peace, as well within Liberties as without, Maiors, Bayliffes, Constables, and other Officers, to take notice of, and to see obserued, as they tender Our displeasure. And Wee farther will, that publication of this Our Command bee made by order from the Bishops through all the Parish Churches of their seuerall Diocesse respectiuely.

Giuen at Our Palace of Westminster the eighteenth day of October, in the ninth yeere of Our Reigne.

God saue the King.[1]

This then in its completed form is the famous Book of Sports, more properly called "the King's Declaration of Sports," so often and so bitterly referred to by our New England forefathers. Samuel R. Gardiner says of it, as originally issued by James, that —

with the exception of a clause by which the benefit of the liberty accorded was refused to all who absented themselves from the service — a clause by which it was intended to strike a blow at recusancy, but which in reality bribed men to worship God by the alluring prospect of a dance in the afternoon — little objection would be taken to the general scope of the declaration which James founded upon Morton's recommendations.[2]

Mr. Gardiner does not of course intend to express approval of certain passages requiring the enforcement of the laws concerning conformity. But even so his approval, though marking the change that has come over the English speaking people in the matter of Sunday observance at the close of the nineteenth century, would not meet with universal acceptance — *teste* the Statutes of the Commonwealth of Massachusetts.

[1] The following order written by Laud and signed by the King is still among the English State papers: "Charles R. Canterbury, See that our declaration concerning recreations on the Lord's Day, after evening prayer, be printed" (H. Gee and W. J. Hardy, Documents Illustrative of English Church History, p. 522).

[2] History of England, iii. 251.

The Declaration of Sports, ten days after it was signed by the King, was sent out to the Bishops by the Primate, with a letter as follows:

"SALUTEM in Christo." My very good lord. It hath pleased his majesty to command the reprinting of a declaration published in his royal father's time of blessed memory, and intituled, "The king's majesty's declaration to his subjects concerning lawful sports to be used, etc." wherein, as your lordship shall find at the latter end thereof, every bishop is enjoined to see that the books be distributed to the several parishes within his diocese, and there published to the people, to the end they may know his majesty's princely care over them; and to the effectual performance of this I make no doubt, your lordship will use all diligence. And I am commanded to give you notice thereof, because his majesty expects no less from you; and your officers are to send for the books accordingly. So with my love remembered, I leave you to the grace of God and rest

Your lordships very loving friend and brother,

Lambeth October 28. W. CANT.[1]

M. DC. XXXIII.

It does not appear that Laud was especially responsible for the reissue of the Declaration or particularly energetic in enforcing it, — rather the reverse, — but the writer in Chambers's Encyclopædia is doubtless correct in saying that the Puritans believed the Declaration was drawn up by him. This obviously was not the case; and there is no reason to suppose that he had anything to do with the matter until the time of this reissue in 1633. He was not with James on his return from Scotland in 1617 and James's adviser, so far as appears, was Morton, Bishop of Chester.[2] The fact is that

[1] D. Wilkins, Concilia, iv. 484.

[2] Thomas Morton is generally highly spoken of. His daughter Ann was married to Theophilus Eaton, and one of her brothers-in-law, the Rev. Nathaniel Eaton, a pupil of the famous William Ames and first master of the College in our Cambridge, published in 1633 a work entitled: Inquisitio in variantes Theologorum quorundam Sententias de Sabbato et Die Dominico, quam . . . proponit, sub præsidio D.D. Guilielmi Amesii, Nathanael Eatonius, Anglus, ad diem Martij hora prima pomeridiana loco consueto. There is in the Harvard College Library a copy of a second edition of this, published in 1658 at Amsterdam under the title of Guilielmi Amesi Sententia de Origine Sabbati & Die Dominico, Quam ex ipsius mente Concepit scripto & publice disputavit.

the Puritans knew Laud to be their ablest opponent and the head and front of the opposition, so that popularly whatever was done against them was ascribed to him. Serjeant Wilde in his opening speech at Laud's trial for high treason laid great stress on the Book of Sports, thus:

A Bead-Roll of Particulars might be recited, wherein this Reconcilement [of England and Rome] was to be wrought in Points of Free-Will, Merits, Justification, Universal Grace, Purgatory; and, in effect, all the rest.

To draw on these, there must be an introducing of Popish Ceremonies in all the Particulars contained in the Mass-Books, and Pontificals themselves: And to make way for these, the Book of Sports must be published, and pressed beyond the King's Intention or Declaration, which was but a civil Command: but he subjoins Ecclesiastical Penalties, even the sharpest, Suspension, Deprivation, and the like; these executed on divers good and godly Men with a high Hand. Thus a Liberty proclaimed not to Captives but to profane Caitiffs; this Day set apart by God *ab æterno*, exposed and prostituted to all Looseness and Irreligion, and that by a law; This Lamb taken out of his Bosom.

Jehosophat sends Priests and Levites into all the Cities and Tribes to instruct them: This Prelate sends Declarations and Injunctions to corrupt them, and to extinguish the Lamp and Light of Religion. In the former Acts he destroys the Protestants; in this Religion itself. In the one, he leaves Superstition; in the other, nothing but Atheism and Profaneness: . . . as did the Apostate Julian.[1]

This speech of Serjeant Wilde reminds one of the more celebrated speech of Serjeant Buzfuz.

Though for various reasons the Book of Sports was peculiarly obnoxious to the Puritans, I do not think it was intended either in its original issue, or when issued again by Charles, as a trap to catch the Puritan clergy as Arthur Wilson, the contemporary chronicler, says it was. Wilson was of the household of that peculiar and not estimable sort of Puritan, the Earl of Warwick, and is neither a careful nor a scrupulous sort of person; but I imagine that this account which he gives represents the popular idea of the time of the Commonwealth:

Some of the Bishops, pretending *Recreations*, and *liberty* to servants and the common people . . . procured the King to put out a Book

[1] Hargrave, State Trials (1776), i. 842.

to permit dancing about *May-poles*, *Church-ales*, and such debauched Exercises upon the Sabbath-day . . . This Book being only a trap to catch some conscientious men, that they could not otherwise with all their cunning insnare: For they would preach the *Gospel* in a *Fools-coat* (as some of them exprest) rather than be silenced for a *Surplis*. And their Conjuring of them with the Cross in Baptism, and the Circle of the Ring in Marriage, could not make a well-composed *Reason*, and a sound *Conscience* then start at it: But when so *frightful* an *Apparition* as the *dancing Book* appeared, some of the *Ministers*, left all for fear, others by force, they were so terrified with it. . . . This new incroachment upon the *Sabbath* gave both King and people more liberty to *profane* the day with *authority*.[1]

The history of the book is as we see to a large extent contained in the book itself and appears to be correctly given. The main point of course concerns the way of keeping the first day of the week, though this was by no means the only point in dispute.

As a matter of indisputable fact, the English Sunday is in the later centuries a purely English invention[2] which was first advocated in England at some time not very long before the Spanish Armada.[3] Taken up by many of the Calvinists, it spread to Scot-

[1] History of Great Britain (1653), pp. 105, 106.

[2] In 1852 Lyman Coleman wrote:

The Divine authority of the Sabbath neither was recognized by the ancient fathers nor by Luther or Calvin or by the early Reformers. It was reserved for the Puritans to their immortal honour, first to expound and enforce the law of the Christian Sabbath based on the authority of God's word (Ancient Christianity, p. 532).

[3] Mr. Robert Cox, in his Literature of the Sabbath Question (1865), gives a very complete critical bibliography of this question. The first work he mentions (i. 139) advocating the Christian Sabbath is a sermon preached in 1577 by the Rev. Thomas White. This sermon was referred to in 1590 by Stephen Gosson in his Playes Confuted in fiue Actions, and was quoted in 1831 by J. P. Collier in his History of English Dramatic Poetry (1879), i. 220 *note*. There are in the British Museum two copies of the sermon. The text is identical in both copies, but the title-pages differ. That of one copy reads as follows: "A Sermon Preached at Pawles Crosse on Sunday the ninth of December. 1576. by T. W. Imprinted at London by Francis Coldock. 1578." That of the other copy reads thus: "A Sermõ Preached at Pawles Crosse on Sunday the thirde of Nouember 1577. in the time of the Plague, by T. W. Imprinted at London by Francis Coldock. 1578." In the British Museum Catalogue is the statement: "A duplicate of the sermon preached on Nov. 3, 1577: probably the title-page does not belong to the book." In each copy the colophon (p. 98) reads: "Imprinted at London by Francis Coldocke. Anno Dom. 1578.

land and at one time obtained a slight foothold on the Continent. The English speaking Puritans generally adopted it, and in the time of the Commonwealth it came to be a national tradition, accepted by almost all English speaking people, Irish Roman Catholics being the only considerable exception. It is not the Jewish Sabbath transferred to the first day of the week — for the strictest Jews did not forbid music, feasting and dancing. The Jew forbade work, the Puritan also forbade work more or less strictly — not quite on the same lines with the Jew. But it was the Puritan who forbade play. To write, as Wilson does, of the action of James in forbidding the entire suppression of sports on Sunday as "a new incroachment upon the Sabbath" is entirely absurd. The King was simply in some degree resisting a new encroachment upon the immemorial liberties of the people. The question of what relation, if any, the Christian weekly festival bore to the Jewish was debated among theologians, but the Christian festival was not called the Sabbath, nor kept anywhere after the Puritan model by any, until towards the end of Elizabeth's reign.

Martin Marprelate charges one of "that swinish herd" the English Bishops, I think it was "dumb dunsical John," alias the Bishop of London, with playing bowls on Sunday, and writes of "solemnizing the Sabbath." But John Knox visiting John Calvin on a Sunday is said to have found him bowling, — if the story is not true it might have been: and in Geneva at the time of the Commonwealth Evelyn records the pomp and circumstance of the usual Sunday afternoon shooting-matches in which he took part. Such use of language and the objection to the Sunday sport was still very unusual even in England, though in the North there had already been some considerable, I do not find just how much, re-

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Februarij. 10." For a notice of Thomas White, who was the founder of Sion College, London, see the Dictionary of National Biography, lxi. 78. The book which really marked and occasioned a common change in the method of keeping the Sunday, was the work of the Rev. Nicholas Bownde or Bound first published in 1595 under the title of The Doctrine of the Sabbath, afterwards in an abridgment, and again in an enlarged edition in 1606 under the title of Sabbathum Veteris et Novi Testamenti: Or the true doctrine of the Sabbath. The other most important book on this subject is Peter Heylyn's History of the Sabbath (1636), a presentation copy of which to Lord Strafford, afterwards owned by Charles Sumner, is in the Harvard College Library. For the information in regard to Thomas White's sermon, I am again indebted to Mr. Matthews.

striction. And when James returned through Lancashire from Scotland, the Lancashire people, emboldened it is said by the interest he had shown in their sports, even having himself acted as judge on his way North, petitioned for a removal of the restrictions which, apparently entirely without warrant of law, the magistrates had imposed upon them. James is said to have then made two Declarations on the subject, one in a speech at Myerscough Lodge, the other the next day at Houghton Tower,[1] where the petition was presented. This was a really fine fortified Castle belonging to an old family claiming Saxon descent. Here the King was entertained for two or three days. It was here on 17 August, being Sunday, during the King's visit, that, as Nicholas Assheton records in his Journal:

> The Bushopp of Chester ꝑched before the King. To dinner. Ab^{t} 4 o'clock, ther was a rushbearing[2] and pipeing afore them, affore the King in the middle court; then to supp. Then, ab^{t} ten or eleven o'clock a maske of noblemen, knights, gentlemen, and courtiers, afore the King, in the middle round, in the garden. Some speeches: of the rest, dancing the Huckler, Tom Bedlo, and the Cowp Justice of Peace.[3]

I give this at some length because of the occasion and as an illustration of what James considered lawful sports on a Sunday afternoon.

On this day a petition was presented to the King principally signed by Lancashire peasants, tradesmen and servants, representing that they were debarred from lawful recreations upon Sunday, after evening prayers, and upon holidays, and praying that the restrictions imposed in 1579 by Henry Earl of Derby, Henry Earl of Huntingdon,[4] William,

[1] For information about Myerscough Lodge, which appears under various spellings, and Houghton Tower, see the notes to Assheton's Journal, pp. 33, 34, 40, 41, and J. Nichols's Progresses of King James the First, iii. 396 *note*, 398 *note*.

[2] Not the rushbearing of the Book of Sports, which was decorating the church with garlands and the like on the eve of the day of the parish yearly festival — amongst other things the floor was strewn with rushes. The use of the word here may be illustrated by the rushbearing in a Masque at Preston the next day when "a man was enclosed in a dendrological foliage of fronds" (Assheton's Journal, p. 46 *note*).

[3] Journal (1848), pp. 40–45 (Chetham Society, xiv.).

[4] Henry Hastings, Earl of Huntingdon, appointed 17 June, 1577, First Commissioner for Ecclesiastical Causes in the Province of York. The Earl of Derby's appointment was of the same date.

Bishop of Chester, and other high commissioners, might be withdrawn. These restrictions the royal visitor condemned.[1]

The King's action in this matter produced results which he neither anticipated nor desired, for in some places the people celebrated their liberty by assembling during service-time and making intentional disturbance, against which abuse the King's subsequent Proclamation is so largely directed. There was much opposition to the Declaration, among the recalcitrant being the Archbishop of Canterbury. The King did not insist very strenuously on the reading of his Declaration by the clergy and the matter was more or less lost sight of until the reign of his son.

Meantime the feeling in favor of a stricter Sunday had grown, and in the first of Charles I. was passed "An Act for punishing divers abuses committed on the Lord's day, called Sunday," which reads:

that the holy keeping of the Lords day, is a principall part of the true Service of God, which in very many places of this Realme hath beene and now is pphaned and neglected by a disorderlie sort of people . . . Be it enacted . . . there shalbe no meetings assemblies or concourse of people out of their owne Parishes on the Lords day . . . for any sports or pastimes whatsoever; nor any Bearbaiting, Bullbaiting, Enterludes, Cōmon Playes or other unlawful exercises and pastimes used by any pson or psons within their owne Parishes.

This is the first Statute of the sort ever passed in England, and in the Parliament of the third of Charles I. it was followed by —

An Act for the further reformation of sondry abuses cōmitted on the Lords Day cōmonlie called Sonday. Forasmuch As the Lords Day cōmonly called Sunday is much broken and pphaned by Carriers Waggoners Carters Waynemen Butchers and Drovers of Cattel to the great dishonor of God and reproach of Religion, Be it therefore Enacted [that these persons mentioned who shall] Travell uppon the said Day [with carts, waggons, wains, *etc.*] shall lose and forfeit twentie shillings,[2]

and a butcher, for killing or selling, six shillings and eightpence. Of these acts and the subsequent proceedings arising from them Heylyn says:

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[1] The Rev. F. R. Raines, in Assheton's Journal, p. 41 *note*.

[2] 1625, 1627, Statutes of the Realm (1819), v. 1, 25.

Though it was not his Majesties purpose in those Acts to debar any of his good Subjects from any honest and harmless Recreations, which had not been prohibited by the Laws of the Land; or that it should not be lawful for them, in case of necessity, to buy a piece of Meat for the use of their Families, the Butchers Shop not being set open as upon other days: yet presently some Publick Ministers of Justice began to put another sense upon those Acts, than ever came within the compass of his meaning. For at the Summer Assizes held in *Exon. Anno* 1627. an order was made by *Walter*, then Chief Baron, and *Denham* one of the puisne Barons of the Court of Exchequer, for suppressing all Revels, Church-Ales, Clerk-Ales, which had been used upon that day; requiring the Justices of the Peace within the said County to see the same put in execution; and that every Minister in his Parish-Church should publish the said Order yearly, on the first *Sunday* in *February*. The like Order made in the same year also for the Counties of *Somerset* and Dorset, and probably enough for some of the other Counties of that *Western Circuit;* none of them in those squeasie and unsettled Times being questioned for it. And then in reference to the Statute of the Third of this King, a Warrant is granted in the month of April 1629. by *Richard Dean* then Lord Mayor of *London*, for apprehending all Porters carrying Burthens, or Water-men plying at their Oars, all Tankard-bearers carrying Water to their Masters Houses, all Chandlers and Hucksters which bought any Victuals on that day of the Country-Carriers, all Vintners, Alehouse-keepers, Strongwater-men, and Tobacco-sellers, which suffered any Person to sit drinking on that day (though possibly they might do it only for their honest necessities.) In which as *Dean* out-went the Statute, so *Raynton* in the same Office, Anno 1633. over-acted *Dean*, prohibiting a poor woman from selling Apples on that day in St. *Paul's* Church-yard, within which place he could pretend no Jurisdiction, and for that cause was questioned and reproved by *Laud* then Bishop of *London*.

But none so lustily laid about him in this kind, as *Richardson*,[1] the Chief Justice of his Majesties Bench, who in the *Lent*-Assizes for the

[1] The Order made by Richardson and Denham —

was to this purpose, that whereas divers Orders have been made heretofore by the Judges of *Assize*, for the suppression of all *Ales* and *Revels*, the same order is now confirmed at the *Assizes*, and again ordered by the Court in regard of the Infinite Number of Inconveniences, daily arising by means of *Revels*, that such *Revels*, *Church Ales*, Clerk-*Ales*, and all other Publick *Ales* be henceforth utterly suppressed, and to the end this may be observed, it is further Ordered that the Clerk of the *Assizes* shall leave Copies thereof, with the Minister of Parish within his several Hundred, and shall give a Note under his Hand, that he shall publish it yearly within the Parish the first Sunday in February, and likewise the two Sundays before Easter yearly (Rushworth, Historical Collections, ii. 191).

County of *Somerset Anno.* 1631. published the like order to that which had been made by Walter for the County of *Devon;* not only requiring that the Justices of the Peace in the said County should see the same to be duly put in execution: but also (as the other had done before) that publication should be made thereof in the Parish-Churches by all such Ministers as did Officiate in the same; with which encroachment on the Ecclesiastical Jurisdiction, in imposing upon men in Holy Orders the publishing of Warrants and Commands from the Secular Judges, *Laud* being then Bishop of *London*, and finding his Majesties Affairs in a quieter condition than they had been formerly, was not meanly offended, as he had good reason so to be, and made complaint of it to the King, who thereupon commanded *Richardson* to revoke the said Order at the next Assizes. But Richardson was so far from obeying his Majesties Command in that particular, that on the contrary he not only confirmed his former Order, but made it more peremptory than before: Upon complaint whereof by Sir *Robert Philips*,[1] and other chief Gentlemen of that County, his Majesty seemed to be very much moved, and gave Command to the Bishop of *London* to require an Account from the Bishop of *Bath* and Wells then being, how the said *Feast-days, Church-Ales, Wakes*, or *Revels*, were for the most part celebrated and observed in his Diocess.[2]

Laud accordingly wrote to Bishop Piers 4 October, 1633:

There has been of late some noise in Somersetshire about the Feasts of the Dedications of Churches, commonly called the Wakes, and it seems the Justices of Assize formerly made an order to prohibit them, and caused it to be published in some or most of the churches there by the ministers, without the Lord Bishop's consent. The pretence for this has been that some disorders are committed at those times, by

[1] Under date of 2 May, 1633, occurs the following:

The King to Sir Robert Phelipps, Sir Henry Berkeley, and Dr. Goodwin, Justices of Peace for co. Somerset. The King understands it has been an ancient custom in that county, and in other parts, to hold feasts of dedications of churches, commonly called the "Walkes" [Wakes], and that the custom has been of late interrupted. They are to certify what has been given in charge by the judges of assize who now ride that circuit, or by any others concerning the suppressing of the same, and whether any judge made an order and sent it to the clergy to publish; and especially what order Lord Chief Justice Richardson made at the last assizes, for recalling a former order against those feasts, as the King's express command twice signified to him by the Lord Keeper was he should do. The King's intention is not to give liberty to the profanation of the Lord's Day, but that the people after evening prayer may use decent and sober recreations. (Calendar of State Papers, Domestic, 1633–1634, p. 41.)

The then Lord Keeper was Thomas Coventry, Baron Coventry.

[2] Cyprianus Anglicus (1671), pp. 241, 242. See also pp. 243, 244, 278–280.

which argument any thing that is abused may be taken away. There has been some heat in the country about this by the carriage of Lord Chief Justice Richardson, with which his Majesty is not well pleased. He conceives that disorders may be prevented by the Justices of the Peace, and yet leave the feasts to be kept for the neighbourly meetings and recreations of the people. His Majesty is further informed; that the Humorists increase much in those parts, and unite themselves by banding against these feasts which he noway likes. He has commanded the Archbishop to require Bishop Piers to send for some of the gravest of his clergy, and such as stand best affected to the Church and Government, and by them to inform himself how these feasts have been ordered for this last year, and to send up an account to be shown to his Majesty.[1]

Under date of 5 November, Bishop Piers replies:

On receipt of his letter . . . he sent forth letters to some of the better sort of the clergy, out of every division, part, and corner of Somersetshire to come to him, and he finds by the answers of 72 beneficed ministers in whose parishes Feasts of Dedication of their churches are kept: — I. That those feasts have been kept so long as they have lived in their several parishes without disorders. II. That on the feast days the service of the church has been more solemnly performed, and the church better frequented, than upon any other Sunday in the year. III. That they have not known of any disorders in the neighbouring towns where the like feasts are kept. IV. That the people very much desire their continuance. Lastly. All those ministers are of opinion that it is fit they should be continued, for a memorial of the dedication of their churches, for the civilizing of people, for their lawful recreations, for composing differences by meeting of friends, for increase of love and amity as being feasts of charity, for relief of the poor, the richer sort keeping then open house, and for many other reasons. Believes if he had sent for 100 more of the clergy, he should have received the same answers. . . . throughout Somersetshire there are not only Feasts of Dedication, but Church-ales, Clerk-ales, and Bid-ales. The Feasts of Dedication are called Feast-days or Revel-days, and are not known among the ignorant people as Feasts of Dedication, although all scholars acknowledge them to be so, and one minister who has been a great traveller, has inserted in his answer that in some reformed churches, namely in Switzerland, these feasts are observed. When the constables told their

[1] Calendar of State Papers, Domestic, 1633–1634, p. 231.

neighbours that the judges would put down these feasts, they answered that it was very hard if they could not entertain their friends once a year, to praise God for his blessings, and pray for the King under whose happy government they enjoy peace and quietness. The chiefest of the dislike of the feasts among the preciser sort, is because they are kept upon Sundays, which they never call but Sabbath days, upon which they would have no manner of recreation, neither roast nor sod. Some of the ministers confess that if the people should not have their lawful recreations upon Sundays after evening prayer they would go either to tippling houses and there talk of matters of church and state, or else into conventicles. Church-ales have been most left off or put down, but by church-ales heretofore many poor parishes have cast their bells, repaired their towers, beautified their churches, and raised stocks for the poor, and not by the sins of the people (as some humorists have said), but by the benevolence of the people at their sports and pastimes. Clerk-ales, for the better maintenance of parish clerks, have been used until of late, and since they have been put down, some ministers are afraid they shall have no parish clerks. A bid-ale is when an honest man decayed in his estate is set up again by the benevolence of friends at a feast, but this is laid aside in almost every place.[1]

The King did not however wait until this answer was received, but, as we have seen, even before it was written had already provided for the reissue of his father's Declaration. This action of the King may have been hastened by a Petition to the King, the exact date of which I do not see stated, from twenty-five of the Justices of the Peace for the County of Somerset, headed by John Poulett, first Baron Poulett. They say:

Heretofore there have been several good orders made by Justices of Assize and Justices of Peace for co. Somerset for suppressing church-ales, clerk-ales, bid-ales and revels, by reason of disorders inseperably accompanying the same, whereby they have been for a long time forborne. By occasion of a declaration published last assizes by the Lord Chief Justice of the King's Bench for restoring wakes and revels and repealing all orders made against them, and by reason of a rumor thereof spread in the country since the last Assizes, not only all the disorders and prophanation of the Lord's day, riotous tippling, contempt of authorities, quarrels, murders, &c., have increased this summer, but even the other disorderly assemblies of church-ales, bid-ales, and clerk-ales condemned

[1] Calendar of State Papers, Domestic, 1633–1634, pp. 275, 276.

by the laws have again been set up. Pray the King to grant some more particular declaration that his command may not be thought to extend further than to the upholding of civil feasting between neighbour and neighbour in their houses, and the orderly use of manly exercises, and that they may have his favour to suppress all the before mentioned unlawful assemblies.[1]

The radical contradictions between this statement and others may be better understood by recalling the conflicting statements of the "temperance" advocates and their opponents in our own time. The statement, however, that the different sorts of ales mentioned were unlawful is simply false, if by unlawful these Justices of the Peace meant against any Statute. The keeping of them was indeed contrary to their own orders,[2] which in this case appear to have been in this particular, as in the suppression of the parish festivals and the commanding the clergy to promulgate them under penalty, altogether *ultra vires*. And there is among the State Papers of this date the —

draft of a royal declaration made or suggested respecting the King's care to maintain all courts of justice within their true bounds. It refers to the pains he has already taken to that end, and states his purpose to settle a certain order respecting prohibitions in accordance with the ancient laws of the realm.[3]

There seems to have been ample reason for issuing such a Declaration. The King and the Archbishop both lost their lives, but the Puritan Sabbath triumphed and the hated Book of Sports went first to the hangman thus:

An Order of the Commons assembled in Parliament for the burning of the Book for tolerating Sports upon the *Lord's day* — Die Veneris 5, Maii 1643.

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[1] Calendar of State Papers, Domestic, 1633–1634, p. 350.

[2] They sent with their petition copies of three similar orders formerly issued: (1) by the Justices of the Peace of Devon for suppressing church-ales and revels dated 10 January, 1599; (2) by Sir Laurence Tanfield and Sergeant Montagu, Justices of Assize for Devon, ordering its publication in parish churches, dated 24 July, 1615; (3) by Sir John Walter, Lord Chief Baron, and Sir John Denham, Justices of Assize for Devon, ordering the parish clergy to publish it yearly on the first Sunday in February, dated 23 July, 1627 (*Ibid.* pp. 350, 351).

[3] *Ibid.* p. 351.

[illegible] THE COLONIAL SOCIETY OF MASSACHUSETTS

It is Ordered by the Lords and Commons in Parliament assembled concerning the suppressing and tolerating of Printing [illegible] *by the Lords and the Commons* [illegible] *and to this purpose the* [illegible] *Middlesex respectively are hereby required to be* [illegible] *of this order and see the said Books* [illegible] *of persons who have printing of the said Books in their* [illegible] *required hereunto to return them to one of the Sheriffs* [illegible] *be hereof accepting to the order.*

The Sheriffs of London and Middlesex have authority [illegible] *the truth of this instant May, at sight of the same, for* [illegible] *to bring them in to their hands.*[1]

Mr. Henry H. Edes communicated an [illegible] dated 16 May, 1747, written by the Rev. Dr. [illegible] man of the Brattle Square Church, Boston, [illegible] Francis Foxcroft of the First Church, concerning [illegible] tion to be present at the ordination of the [illegible] Mayhew of the West Church which, as is well [illegible] accomplished with difficulty and only after a [illegible] Council had been called. The letter[2] follows:

Boston, [illegible]

Rev & dear Sir

Deacon Berry[3] & Mr Gray[4] have just now [illegible] ye West Chh, to ask our Presence in Council on Wednesday [illegible] Ordination of their Pastor Elect. They tell me [illegible] ye Town they have sent only to yours & ours. [illegible] away, & whether Dr Chauncy[5] is returned I know not.

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[1] A collection of all publicke orders ordinances and [illegible] Houses of Parliament from the Ninth of March 1640 until [illegible] 155, 157.

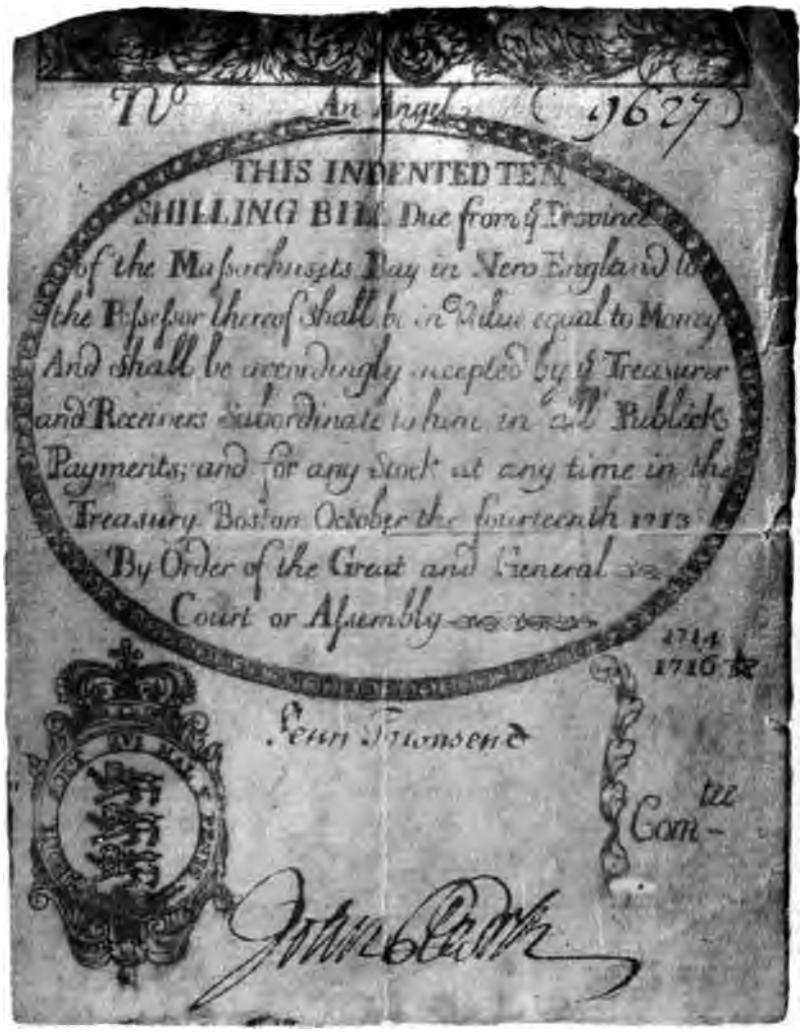
[2] The original letter belongs to the Rev. Anson Titus [illegible] [illegible] for publication in our Transactions.

[3] [illegible]

[4] [illegible] He was the last Treasurer of the [illegible] Colony (1730-1774). See 1 Proceedings of the [illegible] Society, [illegible]

[5] The Rev. Samuel Cooper (H. C. 1743).

[6] The Rev. Charles Chauncy (H. C. 1721).



Engraved for The Colonial Society of Massachusetts
from an original in the possession of the
Hon. Samuel Abbott Green, M.D.

It is *Ordered by the Lords and Commons in Parliament: that the Booke concerning the injoying and tolerating of Sports upon the Lords day, be forthwith burned by the hand of the Common Hangman in Cheapeside and other usuall places; and to this purpose, the Sheriffs of* London *and* Middlesex *respectively are hereby required to be assistant to the effectual execution of this order and see the said Bookes burnt accordingly, and all persons who have any of the said Books in their hands are hereby required* forthwith *to deliver them to one of the Sheriffs of* London, *to be burnt according to this order.*

The Sheriffs of London *and* Middlesex *have assigned Wednesday next the tenth of this* instant May, *at twelve of the clock, for . . .* all persons to bring them in by that time.[1]

Mr. HENRY H. EDES communicated an unpublished letter dated 15 May, 1747, written by the Rev. Dr. Benjamin Colman of the Brattle Square Church, Boston, to the Rev. Francis Foxcroft of the First Church, concerning an invitation to be present at the ordination of the Rev. Jonathan Mayhew of the West Church which, as is well known, was accomplished with difficulty and only after a second ordaining Council had been called. The letter[2] follows:

Boston. May 15. 1747
p. m.

Rev & dear Sir

Deacon Berry[3] & Mr Gray[4] have just now bro't me a Letter from ye West Chh. to ask our Presence in Council on Wednesday next for ye Ordination of their Pastor Elect. They tell me that of all ye Chh's in ye Town they have sent only to yours & ours. Mr. Cooper[5] is gone away, & whether Dr Chauncey[6] is returned I know not.

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[1] A collection of all publicke orders ordinances and Declarations of both Houses of Parliament from the Ninth of March 1642 until December 1646, pp. 156, 157.

[2] The original letter belongs to the Rev. Anson Titus, who has kindly permitted a copy to be taken for publication in our Transactions.

[3] Henry Berry.

[4] Harrison Gray. He was the last Treasurer of the Province under the Crown (1753-1774). See 1 Proceedings of the Massachusetts Historical Society, viii. 354.

[5] The Rev. Samuel Cooper (H. C. 1743).

[6] The Rev. Charles Chauncy (H. C. 1721).

Engraved for the National Society of Massachusetts
from an original in the possession of the
Hon. Samuel Abbott Green M.D.

I freely told ye Brethren ye great Uneasiness & Displicency it must be to me to be asked without ye Presence of ye Revd Dr Sewal,[1] Prince,[2] Webb[3] &c ~. I shal be glad to know your Mind & Counsel on this Occasion. I had my Cloke on just now & had got out of doors to have come up to your House. If you come out this afternoon, you wil oblige me by calling on me. If you can't come out & ye Sun shines, I 'll wait on you. Our Peace & Edification at home, is I fear threatned whether we send, or not. How it may be wth You I know not. But I pray God to give us Peace, with Truth & Holiness, always, by all Means.

Rev. Sir Your affec. Brother & Servt

BENJ. COLMAN

Rev. Mr Foxcroft.

On behalf of Dr. HORACE HOWARD FURNESS, a Corresponding Member, Mr. EDES presented a copy of a reprint of the New-England Weekly Journal of 8 April, 1728.

Mr. ANDREW MCFARLAND DAVIS exhibited a photograph of a Provincial Ten Shilling Bill, and spoke as follows:

This photograph of a ten shilling bill of public credit of the Province of Massachusetts, the original of which was printed from the plate prepared in 1713, brings before us a new specimen of the Provincial currency for which we are indebted to the courtesy of Dr. Samuel A. Green, the owner of the bill. The dates inscribed upon the margin of the plate, 1714 and 1716, indicate that the plate was used for emissions in those years, and the necessary inference is that this bill was emitted in 1716. The inscription at the top of the bill "An Angel" compels those who are not familiar with numismatics to turn back to the days when Rose Nobles, Florences, Ryals, Angels, Groats, and Sterlings, were current in England, and grope among the terms of an unfamiliar currency, would they seek for some knowledge of the reason why this bill was denominated an Angel. Perhaps the answer furnished by such an examination will not even then be entirely satisfactory.

The Angel is ordinarily defined in our encyclopedic dictionaries as a gold coin, first introduced in 1465, in the days of Edward IV.,

[1] The Rev. Joseph Sewall (H. C. 1707).
[2] The Rev. Thomas Prince (H. C. 1707).
[3] The Rev. John Webb (H. C. 1708).

and having then a value of six shillings and eight pence. The last coinage of this piece was in the reign of Charles I., the date generally assigned being 1634, and the value of the coin then being ten shillings.

Leake, in his Nummi Britannici Historia,[1] gives an earlier date for the appearance of this coin in England. Referring to what he terms the "Indenture the First of his Reign," — meaning not merely the first indenture but the indenture in the first year of the reign of Henry VI., that is, 1422, — Leake says: "And instead of Nobles and Half-Nobles were coin'd by the same Indenture, Angels, or Half-Angels, Sixty seven one half to the Pound, going for six Shillings and eight Pence, or a proportionable Number of Angelets, going for three Shillings and four Pence." Under Edward IV. the Angel continued to be coined and was still rated at six shillings and eight pence. Under Henry VIII. the indentures of 1509, 1532, and 1534, rated the Angel at seven shillings and six pence, while that of 1543 put them at eight shillings. In the year 1553, in the days of Edward VI., the nominal value of the coin was raised to ten shillings. They were coined under Mary, Elizabeth, James I., and Charles I. Various dates are assigned to the last coinage of the Angel in the days of Charles. The only indenture of that reign mentioned by Leake is that of 1627.

I have intimated that the examination of the history of the coinage might fail to furnish a satisfactory explanation for the adoption of this title for a ten shilling bill in Massachusetts in 1714. It was nearly one hundred years since one of these coins had been issued from the mint, and the name must have been a mere memory in the minds of learned men with antiquarian tastes. A glance at the photograph of the bill will show that no provision was made by the engraver for the insertion of the title. To find a place for it he had to erase a portion of the border which was intended to enclose without a break the legend of the bill. Evidently the gratification of this whim — if whim on the part of an antiquary the insertion of this title was — was indulged at the expense of the feelings of the engraver. Just before this plate was engraved it was found that

[1] *Nummi Britannici Historia:* or an Historical Account of English Money, from the Conquest to the uniting of the two kingdoms by King *James* I. and of *Great-Britain* to the Present Time. London, M.DC.XXVI. The date undoubtedly should be 1726.

the ten shilling bill had been extensively counterfeited, and all bills of that denomination were called in. Strange views then prevailed as to what constituted security against counterfeiters. At first blush it would not seem that the insertion of the words "An Angel" could be of value in this direction, but it will not do positively to assume that this was not so in 1714.

The "Angel" seems to have been considered by Judge Sewall the right thing for a tip. Turning to his Diary we find eleven references under the word "Angel" in the Index. December twenty-third, 1713, he says: "Midweek I went to Cambridge in a Calash, visited Mr. Brattle, who has been very sick. Gave him an Angel to buy him and Madam Brattle a pair of Gloves. I din'd there in his study."[1] December first, 1714, he records that he sent "Drs. Mather each of them an Angel."[2] November sixteenth, 1715, he repeated his gift to the Doctors, and was able to enter in the Diary that "they Accept very Courteously."[3] At a later date, October twenty-eighth, 1719, he refers to this as an established custom: "I sent to each of the Doctors [Mather] an Angel as I us'd to do."[4] On one occasion he describes his gift as an "Angel Bill of Credit."[5]

In 1713 Samuel Sewall was on the Committee to sign bills of public credit.[6] On the tenth of November this Committee was instructed to prepare "two new Plates, & four Bills to be engraven on each of them, of such Sums, as they with the Treasurer shall think to be most convenient."[7] These plates, one of which contained the ten shilling bill, were spoken of in June, 1714, as "already prepared,"[8] and although the Angel presented to Mr. and Mrs. Brattle, 13 December, 1713, is not specifically described in the Diary as a bill of public credit, doubtless it was a freshly printed bill, one of the earliest emissions from the newly prepared plate. It is certain that the ten shilling bill of the 1702 plates did not contain the words "An Angel."[9] We have no specimen of the ten shilling Old Colony bill, but the probability is that there were no special means employed to distinguish the several denomi-

[1] Diary, ii. 413. [2] *Ibid.* iii. 28. [3] *Ibid.* iii. 66.
[4] *Ibid.* iii. 233. [5] *Ibid.* iii. 129.
[6] Massachusetts Province Laws, i. 740.
[7] *Ibid.* i. 902. [8] *Ibid.* i. 740.
[9] See the lower left hand corner of Plate 3, facing p. 32, vol. i., Currency and Banking in the Province of the Massachusetts Bay.

nations of that emission other than the numerals and the language used in the face of the bill.

It is plain that the title of the bill greatly pleased Judge Sewall, and if the presence of the words "An Angel" on the plate could by any chance be traced to his intervention, one could easily imagine the satisfaction with which he signed the "Angels," which in the engraved series were to be found on "the pound plate," in red or black, according to the rule laid down in his Mnemonic hexameter, the meaning of which was so long a puzzle to those who sought to interpret it.[1]

[1] The potent aid of our President in the solution of this riddle is acknowledged in "Occult Methods of Protecting the Currency; Sewall's Mnemonic Lines and their Interpretation" — a paper read at the meeting of the Massachusetts Historical Society, December, 1899 (2 Proceedings, xiii. 315–327).

APRIL MEETING, 1904.

A STATED MEETING of the Society was held at No. 25 Beacon Street, Boston, on Thursday, 28 April, 1904, at three o'clock in the afternoon, the President, GEORGE LYMAN KITTREDGE, LL.D., in the chair.

The Records of the last Stated Meeting were read and approved.

The PRESIDENT appointed the following Committees in anticipation of the Annual Meeting:

To nominate candidates for the several offices, — Mr. S. LOTHROP THORNDIKE, the Rev. JAMES HARDY ROPES, and Mr. HENRY E. WOODS.

To examine the Treasurer's Accounts, — Messrs. FRANCIS BLAKE and JOHN NOBLE, Jr.

The PRESIDENT announced the death on the second of April of the Hon. JOHN ANDREW PETERS, formerly Chief-Justice of Maine, a Corresponding Member; and expressed his regret that the Hon. James Phinney Baxter, who had hoped to be present and to pay a tribute to the memory of Mr. Peters, was detained in Portland by his official duties as Mayor. He then spoke briefly of the academic, legal, and judicial career of the Chief-Justice, dwelling particularly on the high reputation of his published opinions and on the national importance of the cases which came before him, involving as they often did far-reaching principles of rights in water-ways and of the law of lumber operators.

Mr. FREDERICK J. TURNER of Madison, Wisconsin, a Corresponding Member, was present, and made a communication presenting unpublished documents from the English

Public Record Office, the Archives of the Department of State at Washington, and the Archives du Ministère des Affaires Étrangères at Paris, elucidating Blount's Conspiracy, 1795–1797.[1]

The Rev. HENRY A. PARKER made the following communication on —

THE REVEREND GEORGE BURDETT.

The Rev. George Burdett who came to Salem in 1635, after some unpleasant experience of the Court of High Commission, is on several accounts an interesting person. Quint, quoting Belknap's Manuscript Church History, says:

> This Burdet from a pretended quarrel with the Bishops and ceremonies of the Church of England, had about the year 1634, left Yarmouth in England, and coming over to Salem, was received as a member of the church there, (was admitted freeman there 2 September 1635), and employed to preach among them for a year or more, being an able scholar and of plausible parts and carriage. . . . While he continued here he corresponded with Archbishop Laud, and a copy of a letter to the Archbishop, wrote by Burdet, was found in his study.[2]

It was not altogether unnatural for Belknap to suppose that Burdett's quarrel was a pretended one, but as a matter of fact it is perfectly clear that there was no pretence about it, nor was it by any means a matter of ceremonies only for which Burdett was in trouble in England.

It so happens that we can follow almost the entire course of Burdett's case before the High Commission: for it begins 18

[1] The documents are printed in the American Historical Review for April, 1905, x. 574–606. See articles by Professor Turner on The Diplomatic Contest for the Mississippi Valley, in the Atlantic Monthly for May and June, 1904, xciii. 676–691, 807–817, and on The Policy of France towards the Mississippi Valley in the Period of Washington and Adams, in the American Historical Review for January, 1905, x. 249–279.

[2] A. H. Quint, Historical Memoranda, i. 25. Palfrey says, "Whether he was then [at Salem] playing a part, or whether he afterwards changed his mind, is not altogether certain; but he turned out at last to be a spy of Laud" (History of New England, i. 517).

February, 1633–34, and ends 5 May, 1636, thus falling within the limits of the first two of those volumes of the Acts of the Court of High Commission which are still extant. From the end of the second of these volumes, 19 May, 1636, the Acts are lost, excepting the volume of entries beginning 11 November, 1639, and ending 7 December, 1640. Indeed all the records of the High Commission remaining to us, put together, cover but a little over three years and three months. I have thought, therefore, that an arrangement of the entries of the Court concerning Burdett's case with some other papers concerning him might interest the Society.

Burdett was a University man, being Master of Arts, though of which University I do not know.[1] He had been a clergyman for some years, for "he had from 1626 to February 1633–4 exercised preaching in Brightwell, Saffron-Walden, and Havering, and for twelve years [months] had been public lecturer of Great Yarmouth."[2]

Henry Swinden, in his work on Great Yarmouth, gives an interesting account of the post-reformation history of the parish. It is sufficient for our purpose to note that for some years before Mr. Burdett's appointment as lecturer, there had been much and varied contention in the parish.[3] Mr. Burdett's name was not one of the two at first proposed by the town authorities to the choice of the Council, but was added to those of the original nominees, Mr. Vincent and Mr. Norton, or substituted for one or other of them, with the result that he was chosen by the Council 29 September, 1632.[4]

The following notices of Burdett are from the Calendars of State Papers unless otherwise stated.

1632, October 29. The Bailiffs and others of Great Yarmouth to George Burdett A.M. Grant of annuity of 100 *l.* per annum to the same George Burdett, elected Lecturer of Yarmouth, so long as he shall continue resident amongst them, and shall duly

[1] He was not an Oxford man, nor was he of Gonville and Caius, Cambridge; neither do I find his name in the printed lists of Cambridge, Dublin, or the Scotch Universities.

[2] See the entry under date of 5 February, 1634–35, p. 367, below.

[3] History and Antiquities of Great Yarmouth (1772), p. 838 *et seq.*

[4] *Ibid.* p. 851. Doubtless Mr. Vincent was the Rev. Philip Vincent, who was here at the time of the Pequot War, and Mr. Norton, the Rev. John Norton who came in 1634.

preach the word of God as their lecturers in former times have been accustomed to do.[1]

1632–33, January 1. Ludham. Bishop Corbet, of Norwich, to the Council. Received their letter of the 13th December, from the hands of the Bailiffs of Yarmouth, on the 22nd of that month, and admitted George Burdett, whom the Council had appointed lecturer, in that place. Hopes he will conduct himself to the advantage of the church. The inhabitants are anxious that he should not want a living, the writer that he should not scatter poison. Christ sent forth shepherds, the people hanker after hirelings, so that the keepers as well as the flock are to be looked after.[2]

The Bishop was clearly not enthusiastic about Burdett, though whether he had any special reason for his evident reserve does not appear. It was on the same date (1 January, 1632–33) that "the articles indented of an agreement between the bailiffs, &c. of Great Yarmouth and Mr. Burdett" were "made and concluded" with the consent of all parties concerned. The agreement is in part as follows:

Item, It is agreed that the said Mr. Burdett shall weekly preach one sermon every Sunday, and one sermon every Wednesday (being a market day, and the usual day for the lecture) at such hours as the lecturers in the said town have formerly used to do.

Item, It is agreed that he shall preach one sermon on every coronation day for the king's majesty, and upon every great festival day, i. e. upon the feast of St. Michaelmas the Archangel, the feast of all Saints, the fifth of November, Christmas Day, Twelfth Day, candlemas Day, Ascension Day, and on the twenty-ninth of August, being the day of election of bailiffs and other officers in the said town, and also upon the session days.

Item, It is agreed that he shall be helpful to the curate in the said town in the administration of the sacrament of the Lord's supper, when he is thereunto required.[3]

Trouble between Mr. Burdett and the curate must have broken out at once, for in the Calendar of State Papers we find the following:

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[1] Calendar of State Papers, Domestic Series, 1631–1633, p. 432.

[2] *Ibid.* p. 507.

[3] Swinden, History and Antiquities of Great Yarmouth, p. 853.

1632–33, March 19. Ludham. Minute of proceedings at a meeting before Bishop Corbet, of Norwich, for the decision of certain differences between Matthew Brookes, minister of Great Yarmouth, and George Burdett, lecturer there, both those persons then appearing, together with Thomas Johnson and —— Meadows, burgesses of Yarmouth. The Bishop ordered that the minister and lecturer should each of them read prayers before his sermon; that all fees should go to the minister; that the lecturer should preach on all the "scarlet days,[1] as they name them," and the minister should preach "the blessing to their fishing yearly, which they call the fishing sermon." On Wednesday the lecturer was to begin his sermon at ten o'clock in the morning, but if there happened on that day a christening sermon, marriage sermon, or funeral sermon, or sermon at the churching of any woman, then the lecturer was to begin his sermon at eight

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[1] In reply to a request for information, Mr. Albert Matthews writes me as follows:

The term "scarlet days" is apparently not recognized in the dictionaries. At first I thought that a "scarlet day" might be what later was known as a "red-letter day," — "a saint's day or church festival indicated in the calendar by red letters" (Oxford Dictionary). This interpretation was strengthened on finding that Palmer, the historian of Yarmouth, apparently took a similar view. In 1874 he wrote:

When the Presbyterians had fully established their power they proceeded to abolish the festival of Christmas, which had been a "red-letter day" at Yarmouth, the corporation always going in state to church (Perlustration of Great Yarmouth, ii. 291).

There are, however, two difficulties in this interpretation. First, no earlier instance of "red-letter day" is recorded in the Oxford Dictionary than 1776. Secondly, any saint's day or church festival was a red-letter day, while the agreement quoted in the text seems to indicate that only the days there specified were "scarlet days," — and among these were at least two secular days. Further investigation conclusively shows that the above interpretation is incorrect. In 1541 it was ordered that "the bailiffs and all such that had been bailiffs, should wear and use, as well on every feast of St. Michael as all other principal festivals, gowns of scarlett, furred with typpetts." In 1545 the bailiffs were to wear —

as well on every fest of Seynt Michall th'archangel as on all other principall and festyvall daies, gownes of skarlett furryd with foyner typpetts, and dubletts of velvet, after th' auncyent honorable custome of the towne aforesaid, without tyme of memory used.

Fines were inflicted on those who disobeyed this order. In 1612 it was voted that —

such aldermen as had been bailiffs, should wear scarlet gowns with tippetts; and such as had not, without tippetts; under pain of 40 *s.*

It thus appears that "scarlet days" was a local term peculiar to Yarmouth and meant those days on which the aldermen or bailiffs or mayor of Yarmouth attended church in their scarlet gowns. See H. Manship, History of Great Yarmouth, edited by C. J. Palmer (1854), pp. 364, 365; C. J. Palmer, History of Great Yarmouth (1856), pp. 59, 65, 164, 169.

o'clock in the morning. [*This paper is a copy of the original sent by Bishop Corbet to Bishop Laud, and he has added in a note that two other things were left to his consideration. The minister wished that Mr. Burdett should assist him in the communions "which are great and often;" the lecturer that he might have power to appoint a substitute during his forty days' absence allowed him in the year. Bishop Corbet states his own opinion and asks Bishop Laud's counsel on these points.*][1]

The account of this, given in Swinden's History, is more full in some respects. It there appears that the burgesses, Johnson and Meadowe, "brought letters from Mr. Bailiffs, which signified their desires and consent, that all differences might be presently decided, and ordered by the bishop, which depended between their minister and lecturer, of which letters there are copies in the bishop's register." And the "conclusions" are said to have been agreed to by all the parties. The minister and lecturer were each to "read divine prayers before their own sermons;" the point evidently being, not that the prayers were to be read, not omitted, but that each should read at the same services at which he preached. The minister (as distinguished from the lecturer) —

shall have all fees belonging to christenings, marriages, funerals, the churching of women, and all other duties whatsoever properly belonging to his curateship.

Mr. Brookes, the curate, held his office by appointment of the Dean and Chapter of Norwich, who had successfully maintained their right of appointment as against the custom, which had lately grown up, of appointment by the town, and had put out Mr. Brookes's town-appointed predecessor, Mr. John Brinsleye, M.A. Under the circumstances, there was evidently likely to be friction between the town-chosen lecturer and the curate; and evidently they got in each other's way, in their use of the church. The provisions for keeping them apart are more elaborate than one would suspect from the account in the Calendars, and were in part as follows:

Item, It is ordered that the lecturer shall preach all the scarlet days (as they call them) and that the minister shall preach the blessing to their fishing yearly, which they call their fishing sermon.

[1] Calendar of State Papers, Domestic Series, 1631–1633, pp. 577, 578.

Item, That the lecturer upon Wednesday, being his day to preach, begin his sermon about ten of the clock in the forenoon, except occasion fall out, either by reason of a christening sermon, marriage sermon, funeral sermon, or at the churching of any woman at that time; then it is ordered, that the minister shall have his pulpit free at ten of the clock, giving notice the day before to the lecturer, and the lecturer to begin his sermon at eight of the clock in the morning, on the same day.

Item, It is ordered that if there shall happen any such occasion, as is before named, for the minister to preach on Sunday in the afternoon, it being the lecturer's time to preach, then the minister shall give warning to the lecturer on the day before, and the lecturer shall supply the forenoon's course.

Item, It is ordered that upon Sunday in the afternoon, the minister begin catechising at two of the clock, and so continue half an hour, then prayers to begin and read by the lecturer, then christenings to be performed by the minister, and then sermon to begin presently after.

Swinden continues:

In July following, Mr. Burdett was cited by Mr. Brookes to appear before the chancellor of Norwich, for not bowing at the name of Jesus, as he ought to have done; where he made his appearance, attended by several gentlemen of Yarmouth, that offered to be sworn that he did actually bow at the name of Jesus; and he himself answering the chancellor's demand, sayd that in that point he had, did, and would observe the canon. Notwithstanding Mr Brookes's letter, and his own affirmation, corroborated by some of his friends testimony, had sufficient weight with the chancellor, to order Mr Burdett to be suspended. However, upon the bailiffs interceding with the bishop in August following, the suspension was taken off, and Mr Burdett made his reconciliation with the chancellor.[1]

Matters, however, went from bad to worse between the parish clergy at Yarmouth and the lecturer, for Matthew Brookes the curate gave information against Burdett before the Court of High Commission, which we find thus referred to on the first day of the now extant Acts:

1633–34, February 18. George Burdett, clerk. Schism, blasphemy, and raising new doctrines in his sermons as lecturer of Great Yarmouth.[2]

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[1] Swinden, History and Antiquities of Great Yarmouth, pp. 853, 854.

[2] Calendar of State Papers, Domestic Series, 1633–1634, p. 481.

This I take it is the return made to the Court by its counsel, of charges brought for which he considered that there was sufficient reason to proceed in the case. The preliminary proceedings in this case were doubtless the same as those we can follow in the case of Brookes, against whom Burdett promptly brought a counter accusation, as we shall see.

1634, April 24. George Burdett, clerk, of Yarmouth, Norfolk. Depositions of witnesses to be published.[1]

1634, May 8. Time given to propound his defence.[2]

1634, June 12. His defence referred to Sir John Lambe and Dr. Gwynn. . . . Defendant's defence admitted and time given for proof of the same. Motion for delivery to him of his first bond for appearance, he having given a second bond under an order of the court. This motion being objected to, in regard that he stood charged with blasphemy, schism, and other crimes of a foul nature, it was referred to Sir Henry Marten and Sir John Lambe.[3]

The same day we find the entry of the beginning of Burdett's counter suit. The information laid against a man having been "reduced to writing," "some counsel employed by 'the Office' prepared articles of accusation, and the defendant was summoned by letters missive to appear" before the Court. If he did not come, "he was attached and brought up in custody.[4] On his appearance he was called into court and directed to take an oath to answer articles of accusation. He was not informed of their nature, nor, save in a very general manner, to what subjects they related. He was not told by whom they were exhibited.[5] . . . He was simply called upon to swear that he would make full, true, and perfect answers to whatever articles were lodged in the court against him, so far as he knew, or believed, or was bound by law. If he refused to take the required oath he was committed for contempt of court. If he took the oath he was admonished by the

[1] Calendar of State Papers, Domestic Series, 1633–1634, p. 582.

[2] *Ibid.* 1634–1635, p. 50.

[3] *Ibid.* pp. 113, 115.

[4] It is to be noticed that, as in the case of Mr. Cheshire mentioned below, personal appearance might be waived by the Court for good cause.

[5] In the present case at least there was no secrecy, as appears below.

commissioners to be examined within a prescribed time, and called upon to give bond not to depart without leave." [1]

1634, June 12. Matthew Brooks and Thomas Cheshire, clerks, of Yarmouth, Norfolk. Brooks appeared and took oath to answer articles. Cheshire alleged that he could not appear in person in Mr. Brooks's absence, having to officiate the cure of Yarmouth, that being a populous and great parish, and therefore prayed a commission which was granted. It was further alleged that Mr. Burdett being questioned in this court at the suit of Mr. Brooks, he had maliciously preferred these articles against the defendants, the consideration whereof was referred to Sir Henry Marten and Sir John Lambe.[2]

1634, June 19. Matthew Brooks and Thomas Cheshire. Cause to be proceeded in; Cheshire's answers to be returned by 1st August.

George Burdett, clerk. Being no beneficed man, defendant is to give a new bond to appear on warning; commissions ordered for examination of witnesses.[3]

1634, June 26. George Burdett, clerk, of Yarmouth. Many schismatical people in Yarmouth being likely to be produced as witnesses for Mr. Burdett, a sworn clerk of the office of the Registrar of this court may be appointed to examine such witnesses.

Matthew Brooks, clerk, and Thomas Cheshire, clerk, of Yarmouth. Similar order to the preceding as to examinations. Brooks to have copies of his articles and answers, and to be licensed to depart on bond.[4]

1634, October 9. George Burdett. Motion to be made by Dr. Rives next court day.[5]

1634, October 16. Matthew Brooks and Thomas Cheshire, clerks, of Great Yarmouth. Mr. Guy was ordered to be suspended, but afterwards his suspension was forborne by order of the Archbishop till he had further examined the matter.[6]

1634, October 16. George Burdett, clerk, of Great Yarmouth. Witnesses sworn, and in order that Mr. Brooks the prosecutor might not unnecessarily be kept from his cure, counsel were ad-

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[1] See John Bruce's account of Procedure in Preface to Calendar of State Papers, Domestic Series, 1635–1636, pp. xxix–xxxi.

[2] Calendar of State Papers, Domestic Series, 1634–1635, p. 115.

[3] *Ibid.* p. 119.

[4] *Ibid.* p. 125.

[5] *Ibid.* p. 261.

[6] *Ibid.* p. 267.

monished to use expedition that the cause might be heard this term.[1]

1634, October 23. George Barret [Burdett], clerk. Witnesses produced not only in this cause, but in that against Brooke.[2]

1634, October 23. Matthew Brooks and Thomas Cheshire, clerks, of Yarmouth, Norfolk. Cause continued.[3]

1634, October 23. George Burdett, clerk, of Yarmouth, Norfolk. Names of witnesses sworn; Burdett to examine what witnesses he would betwixt this and the next court day, and then publication to be had; counsel on both sides to prepare their briefs ready so that the cause may be heard the last court day save one.[4]

1634, October 30. George Burdett, clerk, of Yarmouth. The Bishop of Norwich made report that he had released Mr. Burdett of the suspension inflicted on him by his chancellor, Dr. Corbett, if no new cause of scandal appears, whereupon the cause to be prepared for sentence.[5]

1634, October 30. Matthew Brooks and Thomas Cheshire, clerks, of Yarmouth, Norfolk. To prepare their defence within a fortnight, and leave it in the registrar's office.[6]

1634, November 6. Matthew Brooks and Thomas Cheshire, clerks, of Yarmouth. Motion made that certain charges in the articles related to matters which were formerly objected against Mr. Brooks at the Council table, and were then heard by his Majesty in person, and ordered and determined, whereupon it was moved that they should be expunged: but it being stated that the defendants and also witnesses had been already examined thereon, the court determined to let the cause be taken as it now stands, with reservation of power to consider the same at the hearing of the cause.[7]

1634, November 6. Matthew Brooks and Thomas Cheshire, clerks. Motion for purging the articles rejected.[8]

1634. November 13. George Burdett, clerk. Monday next appointed for cause to be informed in and finally sentenced.[9]

1634, November 20. George Burdett, clerk. Put off till next term and then to be finally sentenced.[10]

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[1] Calendar of State Papers, Domestic Series, 1634–1635, p. 267.
[2] *Ibid.* p. 271.
[3] *Ibid.* p. 271.
[4] *Ibid.* p. 273.
[5] *Ibid.* p. 275.
[6] *Ibid.* p. 276.
[7] *Ibid.* p. 315.
[8] *Ibid.* p. 318.
[9] *Ibid.* p. 324.
[10] *Ibid.* p. 328.

1634, November 20. Matthew Brookes and Thomas Cheshire, clerks. To be heard next court day after Burdett's cause.[1]

1634, November 27. Matthew Brookes and Thomas Cheshire, clerks, of Yarmouth. Upon petition of Brookes that his cause against Mr. Burdett was begun two terms before Burdett began his suit against him, it was ordered that the former cause should be heard the first court day of next term.[2]

1634–35, January 29. George Burdett, clerk. Defendant monished to appear next court day to hear judgment.[3]

1634–35, January 29. Matthew Brookes and Thomas Cheshire. Matthew Webb and John Rose sworn as witnesses upon the matter of defence, and Mr. Burdett sworn and admonished to answer on the matter produced by Brookes and Cheshire.[4]

1634–35, January 29. Matthew Brookes and Thomas Cheshire, clerks. Motion that this cause might be heard together with the cause against the promoter the next court day, to which counsel for the defence answered that the commission was not yet sent up, but stood to be transmitted at the next session. Witnesses produced on part of defendants, and Mr. Burdett, the promoter, were sworn and monished to be examined before the next court day.[5]

1634–35, February 3. George Burdett, clerk. Cause came on for sentence; brief of the proofs read.[6]

1634–35, February 5. Matthew Brookes and Thomas Cheshire, clerks. Depositions ordered to be published saving the answers of the promoter, and the cause to go to report.[7]

1634–35, February 5. George Burdett, of Yarmouth, clerk. Defendant stood charged, that being a priest in holy orders he had from 1626 to February 1633–4 exercised preaching in Brightwell, Saffron-Walden, and Havering, and for twelve years[8] hath been public lecturer of great Yarmouth. In preaching at Yarmouth from the text Rom. iii. 25., he taught that our redemption by Christ was by ordination, — First, in respect of Christ himself, who was to be redeemed, for otherwise there could have been no redemptive faculty at all in his bloodshed, and that all that he did in that kind had but satisfied for him-

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[1] Calendar of State Papers, Domestic Series, 1634–1635, p. 328.
[2] *Ibid.* p. 336.
[3] *Ibid.* p. 490.
[4] *Ibid.* p. 495.
[5] *Ibid.* p. 496.
[6] *Ibid.* p. 532.
[7] *Ibid.* p. 535.
[8] Presumably an error for "months."

self as a creature; secondly, in respect of man, who was to be redeemed, thereby, as he said, to confine the merits of Christ's sufferings to a certain number, all others to be utterly excluded. And thereupon he said, we should be careful not to stretch the merits of Christ beyond their line. On the Sunday next after Easter 1633, preaching in opposition to what was preached in the forenoon by Mr. Cheshire, defendant said, "They think all well if they can but extend the merits of Christ large enough," and then he went on in words here quoted, to limit the merits of Christ's death to the elect. On the 19th May, 1633, defendant was present at a sermon of Mr. Cheshire, in which he had spoken of the duty of ministers not to be dumb dogs, but to bark and bite too when there was an intrusion of heretical or schismatical doctrine; thereupon defendant, in the afternoon, remarked on the dogs and curs which would be snarling at the saints, compared them to Cerberus, and said of himself that he would, like the dog at Nilus, lap and away, lest the crocodile should catch him. Further that on 1st May 1633, he preached that "those that are the most forward to bow at the name of Jesus are the greatest hypocrites," and "that in these days, those that are most ready in their outward performances, are most negligent in weightier matters for their souls' health." On another occasion he said "that the ministers of God ought to be called or chosen by the people." He had also preached "that he would not have God's people come and assemble themselves at the Holy Communion with the rout and rabble of all sorts, for," he said, "do you not see what an unhallowed rout of whoremongers and drunkards daily press upon their own damnations in presenting themselves to receive the Communion." And this was spoken in opposition to Mr. Brookes, the minister, who had admonished the people oftener to come to the Holy Communion, in that there were 1,200 communicants who had not received at Easter 1633. Defendant had been admonished by his ordinary to conform himself to the rites and ceremonies of the Church of England, and in particular to bow his knee at the name of Jesus; and after such admonition in his prayer before a sermon he prayed thus: "Lord God, thou art a spirit, and wilt be worshipped with spiritual worship; thou regardest not the bending of the knee, nor the bowing of the body, nor any other hypocritical service." He also preached that people might go away from their own parish

church two or three miles to hear sermons, and that confession of sins according to the liturgy of the Church of England was no confession, but added that he would make no application, because there were catchers in the church. That on Ash Wednesday 1632 he refused to read the commination, and on other occasions omitted the Ten Commandments, and that he had said that the name of Jesus was to be reverenced, but not in a superstitious manner, as the pulling off of hats, &c. He had also (amongst other things) preached that there could be no resemblance or delineation of any of the persons of the Holy Trinity, and that there was none in the world that could convince him that this or that picture may more resemble Jesus than Judas, or that that image or picture rather resembled the Virgin Mary than the Pythoness in the Acts, or the Witch of Endor; and that he preached that a certain boy having seen the picture of God the Father, as the Papists used to paint him, and being demanded what God was, he answered, "An old fool in heaven, with a white beard." Being convented before his ordinary, Dr. Corbet, and being demanded what he could say for himself that he should not be suspended, he replied to his ordinary, that he was an incompetent judge of him, and that he did refuse him for his judge, and thereupon endeavoured to go out of court, but was monished to stay, and was suspended by his ordinary. Of all which he was pronounced guilty, and the court finding that he was merely a lecturer, and lived at Yarmouth upon the benevolence of the people, suspended him from the execution of his ministerial function, and ordered him to be removed from his preachership at Yarmouth. He was also ordered to make a public submission in this court, *conceptis verbis*, of his scandalous, blasphemous, erroneous, heretical, and schismatical opinions, at such time as three of the commissioners should appoint, which submission is afterwards to be intimated and published in Yarmouth church, and lastly he was condemned in good costs of suit, which are to be taxed next court day.[1]

1634–35, February 12. Matthew Brookes and Thomas Cheshire, clerks, of Yarmouth. Ordered that after Mr. Burdett has performed the order in his cause, then their cause be committed to report.[2]

1634–35, February 12. George Burdett of Yarmouth, Norfolk, clerk.

[1] Calendar of State Papers, Domestic Series, 1634–1635, pp. 537–539.

[2] *Ibid.* p. 543.

On motion that defendant might be attached till he had performed the order of the court, it was alleged on the contrary side, that then he could not prosecute the cause against Brookes and Cheshire, whereupon it was ordered that the cause against Brookes and Cheshire should be proceeded in no further until Burdett had performed the [order of the] court and paid the costs.[1]

1634–35, February 20. Brooke House. Minutes of a Court for Providence Island. Proposals to Mr. Burdett respecting his entertainment as minister at Providence. He is authorized to make overtures to some godly persons now intending to return to New England, who he hopes may be persuaded to accompany him.[2]

1634–35, March 5. Brooke House. Minutes of a court of Providence Island. Answer received from Mr. Burdett that he could not promise to go this voyage to Providence.[3]

1635, April 16. George Burdett, clerk. Ordered that if the expense of this suit be unpaid, and Burdett cannot be found with the attachment, then Mr. Quested, his surety, be called to bring in the body of Burdett, or to show cause why his bond should not be certified.[4]

1635, April 16. George Burdett, clerk, of Yarmouth, Norfolk. Ordered that if 40 *l.*, a moiety of the costs taxed in this cause, be not paid before next court day, an attachment issue to take Mr. Burdett, if he be to be found in England, else that Mr. Quested, fishmonger, his surety, be called upon to bring Burdett forth or to show cause why his own bond should not be certified into the Exchequer.[5]

1635, April 23. George Burdett, clerk. If Mr. Quested, defendant's surety, come not next court day, his [bond] is to be certified.[6]

1635, April 30. George Burdett, clerk. Dr. Rives moved that the bond of Quested, defendant's surety, might be certified into the

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[1] Calendar of State Papers, Domestic Series, 1634–1635, p. 347.

[2] Calendar of State Papers, Colonial Series, 1574–1660, p. 197.

[3] *Ibid.* p. 199. There could not be stronger testimony to Mr. Burdett's standing at the time, as a thorough-going Puritan, than this proposal from the Providence Island Company. The chief men of the company were the most important Puritan leaders in England.

[4] Calendar of State Papers, Domestic Series, 1635, p. 154.

[5] *Ibid.* p. 156.

[6] *Ibid.* p. 182.

Exchequer. Dr. Zouch, counsel for Quested, alleged that all matters required by the bond were fulfilled, and desired that it might be cancelled. Reference to Sir Henry Marten and Sir John Lambe to consider both motions and report.[1]

1635, April 30. George Burdett, clerk. Referred to Sir Henry Marten and Sir John Lambe, to take order for certifying Burdett's bond, given with a surety for his appearance, if they shall see cause.[2]

1635, June 5, George Burdett, clerk. Referred to Sir Henry Marten and Sir John Lambe to set down order in this cause.[3]

1635, June 23. George Burdett, clerk. His bond of 50 *l.* ordered to be certified into the Exchequer.[4]

1635, July 9. On the ninth of July we find Mrs. Burdett, his poor wife, petitioning for an annuity for the support of herself and children, in regard of her being destitute and absent from her husband; he being gone for New England. They [i. e. the town of Yarmouth] generously allowed her twenty marks per annum to be paid quarterly, the first payment to be made at Michælmas next following.[5]

1635, December. Salem, New England. Geo. Burdett to Archbishop Laud. His voluntary exile is exposed to censure, but the truth is, his practice was regular and therein obedience ecclesiastical very real. His judgment in the five articles was moderate, declarations correspondent, the knot of the controversy declined whatever malice did inform, or perjury confirm to the contrary. Wished to impart this to rectify his Grace's judgment of him and his ways, and to stop the mouth of calumny. The ground of his secession was impetuous and malicious prosecution, "importable expense," the end tranquillity in distance, which, could he yet enjoy in his native country, it would exceedingly rejoice him. Prays his Grace to accept these lines from him who desires a favourable answer. *Endorsed by Laud*, "Rec. Feb. 22, 1635-6."[6]

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[1] Calendar of State Papers, Domestic Series, 1635, p. 198.

[2] *Ibid.* p. 201. At some time in this month the town of Yarmouth was inquiring for another lecturer to supply the vacancy caused by Mr. Burdett's suspension (Swinden, History and Antiquities of Great Yarmouth, p. 855).

[3] Calendar of State Papers, Domestic Series, 1635, p. 207.

[4] *Ibid.* p. 231.

[5] Swinden, History and Antiquities of Great Yarmouth, p. 855.

[6] Calendar of State Papers, Colonial Series, 1574-1660, p. 218. There seem

1636, May 5. Matthew Brookes and Thomas Cheshire, of Yarmouth. It was alleged that Mr. Burdett the prosecutor of this cause having been censured in this court at the prosecution of Mr. Brookes, had gone to New England, by which means Brookes had lost 80 *l.* costs taxed in this cause. It was further alleged that this cause had been prosecuted in revenge and that remaining undismissed, defendants conceived themselves to be prejudiced in their reputation, the court ordered the same to be dismissed, and defendants to be discharged from any further trouble.[1]

1638, November 29. Piscataqua. Geo. Burdett to Archbishop Laud. Has lately seen a supplication from Massachusetts Bay to the Lords Commissioners for Plantations, which seems to menace revolt and the erection of a new government, but the truth is they have long since decreed to spend their blood in maintaining their present way and humour, and are using all diligence to fortify themselves. Recommends that the river and harbour of Piscataqua, of which they are endeavouring to obtain the command, should with all expedition, be secured for the King's use, and the port appointed for discharge of ships that bring passengers, in case any be permitted. This would much strengthen the loyal party, as many who go to Massachusetts would go there, but for difficulty of removal. Hears that the Massachusetts magistrates have received from England copies of his letters to his Grace, procured by Mr. Vane. Cannot believe it was with his consent.[2]

Palfrey gives quotations from this last letter, calendared as above, one quotation being:

The day before the writing hereof, I was credibly informed that Massachusetts magistrates have from England received copies of my first two letters to your Grace, which, themselves say, Mr. Vane procured from your Grace's chaplain. If this was without your Grace's consent, it will much more concern your Grace; if with it, which I cannot believe, it will behoove me to consider of it.[3]

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to have been in all three letters from Burdett, and one from Laud, unless the correspondence was continued after November, 1638.

[1] Calendar of State Papers, Domestic Series, 1635–1636, p. 507.

[2] Calendar of State Papers, Colonial Series, 1574–1660, pp. 283, 284.

[3] History of New England (1858), i. 519 *note*.

Mr. Quint, quoting Belknap, gives some account of this correspondence:

A copy of a letter to the Archbishop, wrote by Burdet, was found in his study and to this effect, viz.: — 'That he delayed going to England that he might fully inform himself of the state of the place as to allegiance, for it was not new discipline that was aimed at, but Sovereignty, etc. . . .' By the first ship that came in 1638, a letter was brought from the Archbishop to Burdet, 'rendering him thanks for the care of his Majesty's service, and assuring him that they would take a time for a redress of the disorders which he informed them of.'[1]

Mr. ALBERT MATTHEWS read the following paper on —

THE WORD PARK IN THE UNITED STATES.

We Americans so generally apply the word "national" to that which pertains to the National Government in distinction from a State Government, that when I received from Dr. Murray a request for information in regard to our National Parks, I took it for granted that a National Park was so called because it was owned and had been established by the National Government. When, however, an investigation into the history of these Parks was begun, it was found that the question was by no means so simple a one as I had supposed. Perhaps, therefore, as the facts are widely scattered, difficult of access, and have never been brought together, it will be worth while to set the matter forth at some length.

Vague reports of the wonders of the Yellowstone had been current for many years before 1870, but these were generally regarded in the light of travellers' tales.[2] In 1859 Captain William F. Raynolds explored the Yellowstone River, and in his report to the Government we get an amusing account of the trappers and hunters:

Is it surprising that men leading such a life, not hearing from civilization oftener than once a year, and then only through the fur companies

[1] Dover Historical Memoranda, i. 25.

[2] In Major Hiram M. Chittenden's book on the Yellowstone National Park (1895), will be found full information on this point. See also a letter by Major Chittenden in the Nation, 28 May, 1896, lxii. 415. Doubtless the first white man to visit the Yellowstone region was John Colter in 1807.

who send to them to get their furs, and supply them with ammunition and Indian trinkets, but who yet retained a recollection of the outer world they had left, should beguile the monotony of camp life by "spinning yarns" in which each tried to excel all others, and which were repeated so often and insisted upon so strenuously that the narrators came to believe them most religiously.

Some of these Munchausen tales struck me as altogether too good to be lost. One was to this effect: In many parts of the country petrifactions and fossils are very numerous; and, as a consequence, it was claimed that in some locality (I was not able to fix it definitely) a large tract of sage is perfectly petrified, with all the leaves and branches in perfect condition, the general appearance of the plain being unlike that of the rest of the country, but *all is stone*, while the rabbits, sage hens, and other animals usually found in such localities are still there, perfectly petrified, and as natural as when they were living; and more wonderful still, these petrified bushes bear the most wonderful fruit — diamonds, rubies, sapphires, emeralds, &c., &c., as large as black walnuts, are found in abundance. "I tell you, sir," said one narrator, "it is true, for I gathered a quart myself, and sent them down the country."

Another story runs in this wise: A party of whites were once pursued by Indians so closely that they were forced to hide during the day, and could only travel at night. In this they were greatly aided by the brilliancy of a large diamond in the face of a neighboring mountain, by the light of which they travelled for three consecutive nights.

I will end these specimen tales by one from Bridger,[1] which partakes so decidedly of a scientific nature that it should not be omitted. He contends that near the headwaters of the Columbian river, in the fastnesses of the mountains, there is a spring gushing forth from the rocks near the top of the mountain. The water when it issues forth is cold as ice, but it runs down over the smooth rock so far and so fast that it is *hot at the bottom*.[2]

That such stories should have been regarded with skepticism, is not surprising; yet, as the sequel proved, there was in them a curious mixture of fact and fiction. Our first certain knowledge of that region dates from the autumn of 1869, when it was visited by David E. Folsom, C. W. Cook, and William Peterson.[3] In the

[1] For a sketch of James Bridger, who was a noted character in his day, see Chittenden's Yellowstone National Park, pp. 51–57, 327–329.

[2] Report on the Exploration of the Yellowstone River (1868), p. 77.

[3] See The Folsom-Cook Exploration of the Upper Yellowstone in the Year 1869, reprinted, with a Preface by Mr. Langford, at Saint Paul in 1894 from

summer of 1870 it was again visited by a party consisting of Lieutenant Gustavus C. Doane, one sergeant, four privates, and six civilians of Helena, Montana, among the latter being Cornelius Hedges and Nathaniel P. Langford. In 1871 a scientific party, headed by Dr. Ferdinand V. Hayden of the United States Geological Survey, explored the country. It was felt that a region so crowded with marvels and so unsuited for settlement should be set apart for the benefit of the public. Exactly to whom we owe this idea is a matter of some uncertainty and of controversy; but there can be little doubt that to Dr. Hayden more than to any other one man was due its accomplishment.[1] The movement, apparently

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the Chicago Western Monthly for July, 1870, and again in 1904 in Contributions to the Historical Society of Montana, v. 349–369. I am indebted to Mr. Langford for a copy of this pamphlet. In his Preface Mr. Langford says:

> The office of the *Western Monthly*, of Chicago, was destroyed by fire soon after the publication of Mr. Folsom's account of his discoveries, and the only copy of that magazine which he possessed, and which he presented to the Historical Society of Montana, met a like fate in the great Helena fire. The copy which I possess is perhaps the only one to be found (p. 8).

The Boston Public Library owns a copy of the Western Monthly. The article in question, entitled The Valley of the Upper Yellowstone, will be found in vol. iv. pp. 60–67. In Mr. Langford's reprints, the article is attributed to Mr. Folsom, but the original states that it was written by Mr. Cook. From letters received by me from Mr. Folsom, Mr. Cook, and Mr. Langford, it would appear that the article, with the exception of a brief portion, was written by Mr. Folsom, that a copy of the article was sent by Mr. Cook to a friend in Chicago, that this friend turned the article over to the editor of the Western Monthly, and that hence its authorship was credited to Mr. Cook. See also Twelfth Annual Report of the United States Geological and Geographical Survey of the Territories: A Report of Progress of the Exploration of Wyoming and Idaho for the Year 1878 (1883), part ii. pp. 66, 67, 427.

[1] The question is discussed at length by Major Chittenden in his Yellowstone National Park, pp. 87–97. To the facts there given, some new ones can be added. The first person to suggest the creation of a national park was unquestionably George Catlin, who, in "some contemplations on the probable extinction of buffaloes and Indians," and alluding to the "strip of country, which extends from the province of Mexico to lake Winnepeg on the North," in 1841 remarked:

> And what a splendid contemplation too, when one (who has travelled these realms, and can duly appreciate them) imagines them as they *might* in future be seen, (by some great protecting policy of government) preserved in their pristine beauty and wildness, in a *magnificent park*, where the world could see for ages to come, the native Indian in

started late in 1870, was carried to completion on March first, 1872. There are now seven National Parks. Their names, locations,

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his classic attire, galloping his wild horse, with sinewy bow, and shield and lance, amid the fleeting herds of elks and buffaloes. What a beautiful and thrilling specimen for America to preserve and hold up to the view of her refined citizens and the world, in future ages! A *nation's Park*, containing man and beast, in all the wild and freshness of their nature's beauty!

I would ask no other monument to my memory, nor any other enrolment of my name amongst the famous dead, than the reputation of having been the founder of such an institution.

Such scenes might easily have been preserved, and still could be cherished on the great plains of the West, without detriment to the country or its border; for the tracts of country on which the buffaloes have assembled, are uniformly sterile, and of no available use to cultivating man. (Letters and Notes on the Manners, Customs, and Condition of the North American Indians, 1841, i. 262.)

When, in January, 1872, Prof. Joseph Henry wrote that Catlin made a proposition to the government in 1832 "to reserve the country around these [the Yellowstone] geysers as a public park" (Annual Report of Board of Regents of the Smithsonian Institution for 1871, p. 28), it seems probable that he had in mind the above passage imperfectly remembered. At all events, Catlin had no precise locality in mind when he wrote that passage, and he distinctly refers to the plains, not to the mountains. The first specific use of the term "national park," as will presently be shown at length (p. 385, below), occurred in 1868, when Prof. Josiah D. Whitney applied it to the Yosemite Valley. As regards the Yellowstone region, the park idea was of course an outcome of the expedition in 1870 mentioned in the text. Major Chittenden writes:

As soon as the party reached Helena, a series of articles appeared in the daily papers of that city describing the late expedition, and in one of these, written by Mr. Hedges and published in the *Helena Herald* November 9, 1870, occurs what is believed to be the first public reference to the Park project (Yellowstone National Park, p. 91).

It is to be regretted that Major Chittenden does not quote Mr. Hedges's exact words. On 19 January, 1871, Mr. Langford delivered in Washington, D. C., a lecture on the Yellowstone region. This lecture was reported in the Washington Daily Morning Chronicle of 20 January, but the account there given (p. 4/4) contains no mention of the park idea. In the same paper of 20 January, there appeared an editorial which reads in part as follows:

A NATIONAL PARK FOR WASHINGTON.

Baltimore, although at present pretty well provided with public parks, proposes still another within the city limits, which is an additional evidence of the value set upon these institutions by the people. Washington is sorely in need of a grand national park. The plan for such park has received the indorsement not only of General Michler, Superintendent of Public Buildings and Grounds, but of scores of other liberal-minded public men who take a just pride in the beautification of the nation's capital. The supervising architect of the Treasury has also urged the erection of a national park or boulevard. . . . Once established in Washington, a national park, if properly conducted, would be

and the dates of their establishment are given in the following table:

Yellowstone National Park, Wyoming, 1 March, 1872;[1]
Sequoia National Park, California, 25 September, 1890;[2]
General Grant National Park, California, 25 September, 1890;[3]
Yosemite National Park, California, 1 October, 1890;[4]
Mount Ranier National Park, Washington, 2 March, 1899;[5]
Crater Lake National Park, Oregon, 22 May, 1902;[6]
Wind Cave National Park, South Dakota, 9 January, 1903.[7]

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an object of national interest. It could easily be made a garden of acclimation, and might contain specimens of almost every plant and animal found on the globe.

For such a national park Washington possesses the advantage, first, of location; second, of soil; and third, of climate. . . . Will some of our public-spirited citizens move in the matter? (p. 2/3).

In the same paper of 21 January, under the heading of "A Public Park," it is stated that "Mr. Morrill, of Vermont, yesterday submitted in the Senate" a

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[1] United States Statutes at Large, xvii. 32. The Act reads in part as follows:

An Act to set apart a certain Tract of Land lying near the Head-waters of the Yellowstone River as a public Park.

Be it enacted . . . That the tract of land in the Territories of Montana and Wyoming, lying near the head-waters of the Yellowstone river, . . . is hereby reserved and withdrawn from settlement, occupancy, or sale under the laws of the United States, and dedicated and set apart as a public park or pleasuring-ground for the benefit and enjoyment of the people; . . .

SEC. 2. That said public park shall be under the exclusive control of the Secretary of the Interior.

It will be observed that the title National Park does not occur in the Act. On 10 May, 1872, B. R. Cowen, Acting Secretary of the Interior, wrote to Mr. Langford, who had been made Superintendent of the Park, as follows:

Congress, by an act approved March 1, 1872, has set apart a tract of land near the head-waters of the Yellowstone River, in the Territories of Montana and Wyoming, as a public park or pleasure-ground "for the benefit and enjoyment of the people." The reservation so set apart is to be known as the "Yellowstone National Park," and is placed under the exclusive control of the Secretary of the Interior (Report of the Superintendent of the Yellowstone National Park for the Year 1872, p. 1).

The Yellowstone National Park is chiefly in Wyoming, but partly in Montana and Idaho.

[2] United States Statutes at Large, xxvi. 478.
[3] *Ibid.* xxvi. 478. [4] *Ibid.* xxvi. 650. [5] *Ibid.* xxx. 993.
[6] *Ibid.* xxxi. 202. [7] *Ibid.* xxxi. 765.

All these parks are under the control of the Secretary of the Interior. In addition to these seven National Parks,[1] there are

resolution about a certain tract of land in Washington "to be so improved as to form a public park" (p. 4/2). On 21 January Mr. Langford repeated his lecture in New York. Major Chittenden asserts that "The *New York Tribune* of January 23, 1871, thus quotes Mr. Langford:"

> This is probably the most remarkable region of natural attractions in the world; and while we already have our Niagara and Yosemite, this new field of wonders should be at once withdrawn from occupancy, and set apart as a public National Park for the enjoyment of the American people for all time (Yellowstone National Park, p. 92).

The New York Tribune of 23 January, under the heading of "The Wonders of Montana," gives an account of the lecture (p. 5/5), but the words quoted by Major Chittenden do not occur in the account; nor do such words occur in the accounts of the lecture printed in the Herald of 22 January (p. 7/4) or in the Times of 22 January (p. 8/3). The lecture was not reported in the World

[1] It is proper, in passing, to speak of Forest Reservations or Reserves. On 3 March, 1891, it was enacted by Congress —

> That the President of the United States may, from time to time, set apart and reserve in any State or Territory having public land bearing forests, in any part of the public lands wholly or in part covered with timber or undergrowth, whether of commercial value or not, as public reservations, and the President shall, by public proclamation, declare the establishment of such reservations and the limits thereof (United States Statutes at Large, xxvi. 1103).

Under this Act, many Forest Reserves (as they are now generally termed) have been created. Their number and their area are constantly changing, but we learn from the Annual Report of the Commissioner of the General Land Office for 1902 that there were then 54 Forest Reserves, embracing 60,175,765 acres (p. 84), and from the Report for 1903 that there were then 53 Forest Reserves, embracing 62,354,965 acres (p. 31). To create a National Park requires an Act of Congress, while Forest Reserves can be established by Presidential Proclamation. In 1900 a bill was introduced into Congress "empowering the President to set apart, as national parks, tracts of public land which . . . it is desirable to protect and utilize in the interest of the public" (Annual Report of the Commissioner of the General Land Office for 1902, p. 117); but, though the passage of such a bill has been constantly urged by the Commissioner of the General Land Office, it has hitherto failed. Nevertheless, many places of historic and prehistoric interest have been preserved. See an article by Edgar L. Hewett on "Government Supervision of Historic and Prehistoric Ruins" in Science, 25 November, 1904, New Series, xx. 722-727. By an Act of Congress approved 1 February, 1905, the Forest Reserves were transferred from the Department of the Interior to the Department of Agriculture (United States Statutes at Large, xxxiii. 628).

other parks established by Congress which are under the control of the Secretary of War. Though these are, in the Acts creating

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of 22 January nor in the Evening Post of 23 January. On the other hand, through Dr. Murray, I learn that Prof. Francis A. March of Lafayette College sent him the extract quoted by Major Chittenden as from the Tribune of 28 January; but I have been unable to find it in the Tribune of that date. In the two articles on "The Wonders of the Yellowstone" which Mr. Langford contributed to Scribner's Monthly for May and June, 1871 (ii. 1–17, 113–128), there is no mention of the park idea. On 18 December, 1871, Samuel C. Pomeroy of Kansas asked "leave to introduce" into the Senate "a bill to set apart a certain tract of land lying near the headwaters of the Yellowstone as a public park," and on the same day William H. Clagett of Montana introduced into the House a bill "to set apart a certain tract of land lying near the headwaters of the Yellowstone as a public park" (Congressional Globe, pp. 159, 199), On 23 January, 1872, Mr. Pomeroy said in the Senate:

> This bill originated as a result of the exploration, made by Professor Hayden, under an appropriation of Congress last year [1871]. With a party he explored the headwaters of the Yellowstone and found it to be a great natural curiosity, great geysers, as they are termed, water-spouts, and hot springs, and having platted the ground himself, and having given me the dimensions of it, the bill was drawn up, as it was thought best to consecrate and set apart this great place of national resort, as it might be in the future, for the purposes of public enjoyment (*Ibid.* p. 520).

In the same month Dr. Hayden made a report in which he said:

> The bill now before Congress has for its object the withdrawal from settlement, occupancy, or sale, under the laws of the United States, a tract of land fifty-five by sixty-five miles, about the sources of the Yellowstone and Missouri Rivers, and dedicates and sets it apart as a great national park or pleasure-ground for the benefit and enjoyment of the people (Fifth Annual Report of the United States Geological Survey of the Territories, 1872, p. 163).

In an article called "More about the Yellowstone," published in Scribner's Monthly for February, 1872, Dr. Hayden asked:

> Why will not Congress at once pass a law setting it apart as a great public park for all time to come, as has been done with that not more remarkable wonder, the Yosemite? (iii. 396).

The fortunes of the bill can be followed in the Congressional Globe, pp. 484, 520, 697, 718, 1228, 1243, 1244, 1279, 1282, 1416. See also p. 383 *note* 4, below.

Through the kindness of Major Chittenden and Mr. Langford, I am able to add to our information in regard to the extract quoted above as from the New York Tribune of 23 January, 1871. Major Chittenden writes me:

> I saw the clipping in question and copied it myself from Mr. Langford's scrap-book and on the border of it was noted, as is frequently done in such cases, the date and the paper from which it was taken.

them, called sometimes National Parks and sometimes National Military Parks, the proper title would seem to be National Military Parks. There are four, as follows:

Chickamauga and Chattanooga National Park, Georgia, 19 August, 1890;[1]

Shiloh National Military Park, Tennessee, 27 December, 1894;[2]

Gettysburg National Military Park, Pennsylvania, 11 February, 1895;[3]

Vicksburg National Military Park, Mississippi, 21 February, 1899.[4]

Mr. Langford writes:

It is a matter of great surprise to me, that the quotation from my lecture referred to, cannot be found in the New York Tribune report of the lecture. I have in my scrap-book a report of the lecture, which I have always supposed was published in the New York Tribune of 23 January, 1871, and which contains the words quoted. The caption "New York Daily Tribune, Monday, January 23, 1871," was cut from the top of the Tribune, and is pasted in my scrap-book at the head of the report of my lecture. It seems almost incredible that I could have placed the Tribune caption over a report taken from another paper, — but if I made such a blunder, then what other paper was it? I cannot tell. Yet such a blunder might have been possible, considering the amount of matter which the various papers at that time contained in their eagerness to publish something concerning our discoveries, so marvellous and new to them.

Mr. Langford also gives some interesting facts relating to the early development of the park idea with respect to the Yellowstone. He says:

Let us trace this matter from the beginning. While Mr. Hedges's proposition, made in the camp at the junction of the Fire-hole and Gibbon rivers, met with enthusiastic favorable response *at the time*, yet little more was thought of it by any of our party, except Hedges, for many months. . . . I do not think that my enthusiasm over the park project was roused to the working point until Hedges stirred me up. My lecture, as first prepared, was delivered both in Helena and Virginia City before I left Montana for the East, and contained no reference to the park project. After its delivery in these two places I modified it somewhat, interpolating many new paragraphs, of which the quotation in question is one: — and with all these changes the lecture was delivered in Washington and then in New York City. . . . Whatever reports of my lecture have been made, — whether complete or incomplete, — the fact remains that I advocated the park scheme, in these few words, both in Washington and New York City. Beyond a mere statement of this fact, in answer to interrogatories on the subject, I never claimed any credit for the advocacy. This belonged to Hedges. My real interest in the scheme was not roused to the working point till my return to Helena in the summer of 1871,

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[1] United States Statutes at Large, xxvi. 333.

[2] *Ibid.* xxviii. 597.

[3] *Ibid.* xxviii. 651.

[4] *Ibid.* xxx. 841.

These were of course the celebrated battlefields of the Civil War. There was also established in 1889 at Washington, D. C., the National Zoölogical Park.[1] Finally, though strictly speaking

when Hedges communicated his enthusiasm to me, and we joined with Clagett, our newly elected delegate to Congress, in preparing a bill.

Finally, Mr. Langford writes me:

I find among my old papers a fragment (about two columns) of the Helena Herald of that date [9 November, 1870], containing the letter of Mr. Hedges, descriptive of the region embraced in the field of our exploration in the year 1870. In that letter Mr. Hedges writes that while the region we explored is situated in Wyoming Territory, the approach is cut off from that Territory by the impassable Wind River range of mountains, and he adds:

Hence the propriety that the territorial lines be so readjusted that Montana should embrace all that lake region west of the Wind River range; — a matter in which we hope our citizens will soon move, to accomplish it, as well as to secure its further appropriation to the public use.

I do not know that there was any more particular reference to the Park project in any other part of this paper of November 9th which has been destroyed, or in any other issue of that paper. It is my opinion that the above quotation is all that ever appeared in the Herald of that day, relative to the creation of a Park.

In a letter to Mr. Langford, Mr. Hedges says:

There is one chapter that you might have included. Our Legislature was in session the winter following our expedition, and Seth Bullock was councilman for our County. I drew a memorial to congress asking the creation of the park, and Bullock got it passed and it was sent to Congress.

When the corner stone of the entrance of the park was laid by the president and the masons two years ago [24 April, 1903], Bullock called my attention to the fact, and said he had the memorial still, in my hand writing, and gave it to me, and I gave it to the Historical Society [of Montana].

The Council Joint Memorial to Congress, referred to by Mr. Hedges, was approved 12 January, 1872, and reads in part as follows:

Your memorialists would further urge, that the above described district of country, with so much more of the present territory of Montana as may be necessary to include the Lake, Great Falls, and Cañon of the Yellowstone, the Great Basin of the Madison, with its associated boiling, mineral, and mud springs, as may be determined from the surveys made by Prof. Hayden and party the past season, or to be determined by surveys hereafter to be made, be dedicated and devoted to public use, resort, and recreation for all time to come as a great national park, under such care and restrictions as to your honorable bodies may seem best calculated to secure the ends proposed (Laws, Memorials, and Resolutions, of the Territory of Montana, passed at the Seventh Session of the Legislative Assembly, 1872, pp. 648, 649).

See Postscript, p. 397, below.

[1] On 2 March, 1889, Congress appropriated $200,000 for "the establishment of a zoological park in the District of Columbia" (United States Statutes at Large, xxv. 808). On 30 April, 1890, there was passed "An act for the organization, improvement, and maintenance of the National Zoological Park" (*Ibid.* xxvi. 78).

they are not National Parks, mention may be made of National Cemeteries.[1]

It has been stated that the Yosemite National Park was created 1 October, 1890. Yet for at least twenty-two years before that the term "national park" had been applied to the Yosemite Valley. This is a puzzle the elucidation of which is singular. The Yosemite Valley, which previously had been a hiding place for the Indians, was discovered by the whites in 1851,[2] and four or five years later was first visited by excursionists. On 28 March, 1864, John Conness of California "asked, and by unanimous consent obtained, leave to introduce" into the Senate of the United States a bill "authorizing a grant to the State of California of the Yosemite valley, and of the land embracing the Mariposa Big Tree Grove; which was read twice by its title, and referred to the Committee on Public Lands."[3] On 17 May Solomon Foot of Vermont, "from the Committee on Public Lands," to whom the bill was referred, "reported it without amendment."[4] In the discussion of the bill which took place, the word "park" was not used.[5] On 30 June an Act, which in part reads as follows, became operative:

An Act authorizing a Grant to the State of California of the "Yo-Semite Valley," and of the Land embracing the "Mariposa Big Tree Grove."

Be it enacted, . . . That there shall be, and is hereby, granted to the State of California the "Cleft" or "Gorge" in the granite peak of the Sierra Nevada mountains, situated in the county of Mariposa, . . . and known as the Yo-Semite Valley, . . . with the stipulation, nevertheless,

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[1] On 28 July, 1866, Congress appropriated $50,000 "To establish national cemeteries, and to purchase sites for the same" (*Ibid.* xiv. 310).

[2] Writing in 1880, Dr. L. H. Bunnell, who was one of the original party to enter the Valley, said: "The date of our discovery and entrance into the Yosemite Valley was about the 21st of March, 1851" (Discovery of the Yosemite, and the Indian War of 1851, p. 70).

[3] Congressional Globe, p. 1310.

[4] *Ibid.* p. 2299.

[5] See the Congressional Globe, pp. 2300, 2301, 2695, 3378, 3388, 3389, 3444, Appendix, p. 240. It will not be without interest to the members of this Society to note that on 1 July "A message from the President of the United States, by Mr. HAY, his Secretary, announced that" President Lincoln had the previous day approved and signed the Act referred to in the text.

that the said State shall accept this grant upon the express conditions that the premises shall be held for public use, resort, and recreation; shall be unalienable for all time; but leases not exceeding ten years may be granted for portions of said premises. . . .

SEC. 2. *And be it further enacted*, That there shall likewise be, and there is hereby, granted to the said State of California the tracts embracing what is known as the "Mariposa Big Tree Grove," . . . with the like stipulation as expressed in the first section of this act.[1]

At that time the Legislature of California met once in two years, and the Legislature of 1864 had already adjourned before the passage of the above Act of Congress. On 28 September, 1864, the Governor of California appointed himself and eight others "a Board to manage said premises," who "shall be known in law as 'The Commissioners to manage the Yosemite Valley and the Mariposa Big Tree Grove.'"[2] The above grant was accepted by the State of California 2 April, 1866;[3] but litigation at once arose over the preëmption rights of certain settlers, and this controversy remained unsettled until December, 1872, when the Supreme Court of the United States rendered its decision in favor of the Commissioners.[4]

[1] United States Statutes at Large, xiii. 325.

[2] Statutes of California (1866), p. 710. Among the Commissioners were Prof. J. D. Whitney, F. L. Olmsted, E. S. Holden, and Galen W. Clark. Mr. Clark first entered the Yosemite in 1855, discovered the Mariposa Big Tree Grove in 1857, and was for many years Guardian of the Yosemite Valley. He is still living, having recently attained his ninetieth year, and has just published a little book, to which our associate Mr. James L. Whitney calls my attention, on The Indians of the Yosemite Valley and Vicinity.

[3] *Ibid.* pp. 710, 711.

[4] The Commissioners brought action in November, 1867, in the District Court of the Thirteenth Judicial District, Mariposa County, California, where judgment was rendered in favor of the defendant. In July, 1871, the Supreme Court of California reversed the judgment of the District Court and ordered judgment in favor of the Commissioners. In December, 1872, the Supreme Court of the United States sustained the judgment of the Supreme Court of California. See J. D. Whitney, Geological Survey of California (1865), Geology, i. 405; J. D. Whitney, Letter of the State Geologist relative to the Progress of the State Geological Survey during the Years 1864–65 (1866); J. D. Whitney, Report of the Commissioners to manage the Yosemite Valley and the Mariposa Big Tree Grove, for the Years 1866–7 (1868), pp. 8–10; Appendix to Journals of the California Senate and Assembly (1868), ii.; J. D. Whitney, Letter of the State Geologist relative to the Progress of the State Geological

Neither the word "park" nor the term "national park" is found in any legal document relating to the Yosemite Valley. Indeed, it would be strange if the term "national park" were to occur, for by the Act of 30 June, 1864, Congress surrendered its jurisdiction over the tract to the State of California. In a report made to the House of Representatives 2 July, 1870, George W. Julian said:

> But the truth is that the property in these cases was not appropriated by Congress for public uses in any just or legal sense. The entire valley was granted to the State of California, and the jurisdiction of the United States over it has totally ceased. It belongs to the State, subject to the uses and purposes specified in the act, and the control of the State commissioners, and is not a national reservation or park at all.[1]

Yet at the very time that Julian made this statement, which would seem to be legally unassailable, the tract was already beginning to be popularly known as the Yosemite National Park. In a memorial to the Assembly of California, drawn up in January, 1868, Professor Josiah D. Whitney, then State Geologist of Cali-

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Survey during the Years 1866–7 (1867); Journal of the California Senate, 11, 14, 16, 22, 24 January, 20 February, 18 March, 1868, pp. 213, 220, 230, 284, 285, 417, 418, 639; Journal of the California Assembly, 22, 23, 25 January, 4, 12 February, 1868, pp. 304, 305, 321, 338, 405, 448, 449; Report of the Special Committee of the Assembly in relation to the Grant of Land in Yosemite Valley, pp. 4, 5, in Appendix to Journals of the California Senate and Assembly (1868), ii.; Veto Message (4 February, 1868) of the Governor in relation to Assembly Bill No. 238, An Act granting Land in Yosemite Valley, pp. 3, 4, in Appendix to Journals of the California Senate and Assembly (1868), ii.; Congressional Globe, 26 May, 3, 5 June, 23 July, 1868, pp. 2585, 2816, 2817, 2857, 2860, 4346; J. F. Cronelly, 15 September, 1868, Letters to Henry Burbidge (New York, 1869), p. 16; J. D. Whitney, The Yosemite Book (1868), pp. 20–22; J. D. Whitney, The Yosemite Guide-Book (1869), pp. 20–23; Congressional Globe, 18 January, 8, 15 April, 3 June, 2 July, 1870, pp. 549, 2515, 2726, 4043, 5129–5134, 5144; J. M. Hutchings, Scenes of Grandeur and Curiosity in California (1870), pp. 61–171; S. Kneeland, The Wonders of the Yosemite Valley and California (1871), p. 29; J. E. Lester, The Yo-Semite (1873), p. 1; J. E. Lester, The Atlantic to the Pacific (1873), pp. 335, 336; California Reports, July, 1871, xli. 634–640; Statutes of California, 23 March, 1874, pp. 523, 524; United States Reports, Supreme Court, December, 1872, lxxxii 77–94; United States Reports, Supreme Court, October, 1880, ciii. 575–579.

[1] Congressional Globe, p. 5134.

fornia and Chairman of the Commissioners to manage the Yosemite Valley, said:

The action of Congress was an exceptional one. The Yosemite Valley being an exceptional and in every way remarkable locality, it was the object of the Act by which it was donated to the State to make of it something of the nature of a public park, a place of resort where, unlike other famous objects of natural scenery, the visitor would not be hampered with petty exactions and tormented by extortionate demands.[1]

In a book written later in the same year Professor Whitney declared:

No: the Yosemite Valley is a unique and wonderful locality: it is an exceptional creation, and as such has been exceptionally provided for jointly by the Nation and the State — it has been made a National public park and placed under the charge of the State of California.[2]

In 1869 Charles L. Brace wrote:

After this was done, the whole valley, together with the Mariposa grove of Big Trees, was transferred to the State by Congress, to be preserved as a park and public ground forever, — a most wise provision.[3]

In 1871 Samuel Kneeland observed:

A few years since, some scientific men, familiar with California, and especially with this Valley, undertook to obtain the signatures of their fellows throughout the land, . . . remonstrating against the enormity

[1] In Report of the Special Committee of the Assembly in relation to Grant of Land in Yosemite Valley, p. 5, in Appendix to Journals of the California Senate and Assembly (1868), ii. Prof. Whitney's memorial is not dated, but he speaks of "a bill having passed the Senate" (p. 4). This bill passed the Senate 16 January, 1868 (Journal of the California Senate, p. 230), and the Report which contained Prof. Whitney's memorial was made to the Assembly 22 January (Journal of the California Assembly, p. 304). Hence Prof. Whitney's memorial must have been written between 15 and 22 January, 1868.

[2] The Yosemite Book (1868), p. 22. There is nothing to show precisely when this book was published, but it must have been after 23 July, 1868. At p. 20 Prof. Whitney refers to a resolution which "was unfavorably reported" in the United States Senate. This report was made 23 July (Congressional Globe, p. 4346).

[3] The New West, p. 118.

of permitting the claims of private individuals to stand in the way of the reservation of this Valley as a public park forever.[1]

In 1872 Charles Nordhoff wrote:

Who goes to California will certainly visit the Yosemite; and a corporation with a lease of twenty or thirty years could very well afford to put up large and comfortable hotels, and spend a hundred or even two hundred thousand dollars in beautifying this "National Park."[2]

In 1873 John E. Lester said:

Upon a final hearing of this cause before the Supreme Court of the United States, and after full consideration, the Court has made its decision, confirming the grant to California, and declaring the title of Hutchings[3] void. They lay down the following law, which, applied to the facts relative to all the settlements now made there, would seem to settle the matter beyond all question, and thus make this valley a national park.[4]

In 1880 Dr. Lafayette H. Bunnell, who had been one of the first to enter the Valley in 1851, said:

The late claimants to this lovely locality, "this great moral show," have been relieved of their charge by act of Congress, and fifty thousand dollars given them for their claims. It will probably now remain forever free to visitors. The builders of the toll roads and trails should also receive fair compensation for their pioneer labors in building them, that they may also be free to all. When this is done, this National Park will be esteemed entirely worthy of this great republic and of the great golden State that has accepted its guardianship.

Perhaps no one can better than myself realize the value of the labors performed by the early pioneers, that has made it possible for tourists to visit in comfort some of the most prominent objects of interest; but "*a National Park*" should be entirely free.[5]

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[1] The Wonders of the Yosemite Valley and of California, p. 29.

[2] California, p. 78.

[3] James M. Hutchings was one of the settlers against whom the Commissioners brought suit in 1868. Mr. Hutchings was the author of Scenes of Grandeur and Curiosity in California, published in 1870.

[4] The Atlantic to the Pacific, pp. 335, 336.

[5] Discovery of the Yosemite, pp. 220, 221.

It was clearly Professor Whitney who first called the Yosemite Valley a National Park, and soon the designation became well established. But though the Yosemite Valley has passed out of the jurisdiction of the National Government and into the control of the State of California, nevertheless the National Government was concerned in so far as the original grant was due to it; and this fact, no doubt, is responsible for the popular use of "National Park" in connection with the Yosemite Valley.

The tract set apart 1 October, 1890, as the Yosemite National Park is quadrangular in shape, and about in its centre is a small oval tract. We have, then, this curious result, that while, strictly speaking, the quadrangle is the Yosemite National Park, and has been in existence fourteen years only, yet the oval or the Yosemite Valley — completely surrounded by the quadrangle — has been popularly called the Yosemite National Park for thirty-six years.[1]

Deserving of comment is another use of the word Park, which is peculiar to the Rocky Mountains in Colorado and the adjacent country. The word is there applied to a valley shut in on all sides by high hills or mountains. My attention was first drawn to this use of the word when, in the summer of 1887, I encountered the thing itself. No one can visit Colorado without at least hearing of its parks, and no one can travel in the Rockies without seeing them and being attracted by their beauty. The most noted are North,

[1] Since this paper was written, a movement to recede the Yosemite Valley to the United States, advocated by Major John Bigelow, Jr., Superintendent of the Yosemite National Park, by the Sierra Club, and by the press of California generally, has met with success; and an absurd, anomalous, and difficult situation has ceased to exist. See the Sierra Club Bulletin, January, 1905, v. 242–253. On 3 March, 1905, "An act to recede and regrant unto the United States of America, the 'Yosemite Valley,' and the land embracing the 'Mariposa Big Tree Grove,'" was approved by the Governor of California (Statutes of California, 1905, pp. 54, 55), and on the same day there passed Congress and was approved by President Roosevelt a "Joint Resolution Accepting the recession by the State of California of the Yosemite Valley and the Mariposa Big Tree Grove in the Yosemite National Park" (United States Statutes at Large, xxxiii. 1286). See also, under date of 3 March, 1905, Congressional Record, xxxix. 3962, 3963, 3971, 4018, 4027, 4029. In spite of this Joint Resolution, the precise legal status of the Yosemite Valley seems still to be undetermined. See the Nation, 28 September, 1905, lxxxi. 250, and President Roosevelt's Message to Congress of 5 December, 1905.

Middle,[1] South, and San Luis Parks. They vary in size from the huge San Luis Park, into which the State of Connecticut could be put, to a little park a mile or two across. These parks are striking in formation, and I have never seen anything quite like them either in our Eastern States[2] or in Europe. It is thought by geologists that they are the beds of former lakes. In North, South, and Middle Parks are the headwaters of the North Platte, the South Platte, and the Colorado Rivers, respectively, the first two flowing into the Atlantic, the last into the Pacific; while in San Luis Park rises the Rio Grande del Norte, which finds its way into the Gulf of Mexico.

Exactly when this use of the word arose, I have been unable to ascertain, and no doubt the point is impossible of determination, for the hunters and trappers who wandered through them late in the eighteenth and early in the nineteenth centuries left no records. On their outward trip in 1805 and on their homeward trip in 1806, Lewis and Clark crossed the Rockies far to the north of the Colorado Parks. Pike in 1806 actually entered South Park, but neither described its peculiar features nor gave it a name. Long in 1820, Frémont in 1842 and again in 1843, were in the near vicinity of the Parks, but did not penetrate into them. On his homeward trip from the South Pass, however, in 1844, Frémont visited all three of the more famous Parks; and it is probable that in the following passages we have the earliest description of these Parks, written by one who had actually traversed them, which has appeared in print. Under date of 13 June, 1844, Frémont writes:

> Issuing from the pines in the afternoon, we saw spread out before us the valley of the [North] Platte, with the pass of the Medicine Butte beyond, and some of the Sweet Water mountains; but a smoky haziness in the air entirely obscured the Wind River chain.
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> We were now about two leagues south of the South Pass, and our course home would have been eastwardly; but that would have taken

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[1] Though now known as North Park and Middle Park, the former was originally New Park and the latter Old Park.

[2] Waterville in the White Mountains, New Hampshire, presents a fair imitation of a Colorado park. A peculiarity of a Colorado park is that, generally speaking, in order to get out of one it is necessary to climb a hill or mountain; for the streams usually force their way out through cañons so rocky and narrow as to make roads difficult or impossible.

us over ground already examined, and therefore without the interest which would excite curiosity. Southwardly there were objects worthy to be explored, to wit: the approximation of the head waters of three different rivers — the Platte, the Arkansas, and the Grand River fork of the Rio Colorado of the gulf of California; the Passes at the heads of these rivers; and the three remarkable mountains coves, called Parks, in which they took their rise. One of these Parks was, of course, on the western side of the dividing ridge; and a visit to it would require us once more to cross the summit of the Rocky mountains to the west, and then to re-cross to the east; making, in all, with the transit we had just accomplished, three crossings of that mountain in this section of its course. But, no matter. The coves, the heads of the rivers, the approximation of their waters, the practicability of the mountain passes, and the locality of the THREE PARKS, were all objects of interest, and, although well known to hunters and trappers, were unknown to science and to history. We therefore changed our course and turned up the valley of the Platte instead of going down it.

Again, on 14 June, 1844, Frémont remarks:

The next day we continued our journey up the valley. . . .

The valley narrowed as we ascended, and presently degenerated into a gorge, through which the river passed as through a gate. We entered it, and found ourselves in the New Park — a beautiful circular valley of thirty miles diameter, walled in all round with snowy mountains, rich with water and with grass, fringed with pine on the mountain sides below the snow line, and a paradise to all grazing animals. The Indian name for it signifies "*cow lodge*," of which our own may be considered a translation; the enclosure, the grass, the water, and the herds of buffalo roaming over it, naturally presenting the idea of a park.[1]

[1] Report of the Exploring Expedition to Oregon and North California (1845), pp. 281, 282. "New Park" is plotted on the Map to illustrate an Exploration of the Country, lying between the Missouri River and the Rocky Mountains, on the line of the Nebraska or Platte River, By Lieut. J. C. Frémont, facing page 7 of Frémont's Report on an Exploration of the Country lying between the Missouri River and the Rocky Mountains, on the line of the Kansas and Great Platte Rivers, published in 1843. The map is not dated, but Frémont's tour extended from 2 July to 10 September, 1842, he reached St. Louis 17 October, 1842, and his Report is dated 1 March, 1843. Presumably, therefore, the map was plotted in 1842. "New Park," "Old Park," "Bayou Salade," and "South Park," are plotted on the Map of an Expedition to the Rocky Mountains in the

But while, as already stated, the above is perhaps our earliest description of the three Parks by one who had seen them all, yet it is possible to point to a still earlier description of one of them. Under date of 29 July, 1839, Thomas J. Farnham wrote:

To-day we struck Grand River, (the southern branch of the Colorado of the west,) 20 miles from our last night's encampment. . . . The vallies that lie upon this stream and some of its tributaries, are called by the hunters "The Old Park." If the qualifying term were omitted, they would be well described by the name. Extensive meadows running up the valleys of the streams, woodlands skirting the mountain bases and dividing the plains, over which the antelope, black and white tailed deer, the English hare, the big horn or mountain sheep, the grisly, grey, red and black bears, and the buffalo and elk, range, — a splendid Park indeed; not old, but new as in the first fresh morning of the creation. Here also we found the prairie and the large grey wolf, the American panther, beaver, pole cat, and land otter.[1]

Year 1842 and to Oregon & North California in the Year 1843–44, By Brevet Capt. J. C. Frémont, facing page 105 of Frémont's Report of the Exploring Expedition to Oregon and North California, published in 1845. "North Park," "Middle Park," and "South Park" appear in 1848 on the Map of Oregon and Upper California From the Surveys of John Charles Frémont And other Authorities, which accompanied Frémont's Geographical Memoir upon Upper California, published in 1849. Apparently, therefore, the name "Old Park" was displaced by that of "Middle Park" between 1842 and 1848.

[1] Travels in the Great Western Prairies (1843), p. 51; *cf.* pp. 53, 56, 62, 63, 73. Farnham's route is a little difficult to trace, but, though he traversed South and Middle Parks, he certainly did not enter North Park. I am indebted to Mr. Edward H. Whorf of Boston for calling my attention to this book.

Since the above paper was written, the section of the Oxford Dictionary containing the word Park has been published. Dr. Murray quotes an extract from Major Zebulon M. Pike, where, apparently, Pike uses the word in the sense under discussion. When I sent the extract to Dr. Murray, now several years ago, I was under the impression that such was the case; but a more careful examination makes it somewhat doubtful. Under date of 14 August, 1806, Pike writes:

Embarked at half past five o'clock. Passed the *Park*, which is ten miles round, and not more than three quarters of a mile across, bearing from S. 5° E. to due N. (Sources of the Mississippi, 1810, p. 123.)

In 1895, Dr. Elliott Coues located the place as follows:

Near the N. E. corner of St. Clair Co. and the S. E. corner of Henry Co. [Missouri].

What Frémont called the New Park is now North Park, and what Farnham called the Old Park is now Middle Park. The Indian name for North Park is older than its English name. Though, as already stated, Long in 1820 did not penetrate into the Parks, nevertheless, from the accounts given him by his guides, he described the North Park. Under date of June, 1820, Dr. Edwin James writes:

> The North fork at its confluence is about eight hundred yards wide, is shoal and rapid like the Platte, and has a sandy bed. We were informed by our guide who had been repeatedly to its sources, that it rises within the Rocky Mountains, about one hundred and twenty miles north of the sources of the Platte.
>
> It is probably the river which was mistaken by Captain Pike for the Yellow-stone, and has been laid down as such on his map, whence the mistake has been copied into several others. It has its source in numerous small streams, which descend from the hills surrounding a circumscribed valley within the mountains, called the Bull-pen. This basin is surrounded by high and rugged mountains, except at the place where the North fork passes into the plains. On each side of this strait, or pass, are high and abrupt rocky promontories, which confine the river to a narrow channel. The diameter of the circumscribed valley, called the Bull-pen, is one day's travel, about twenty miles.[1]

Had the word Park been known at that time, it seems probable that Dr. James would have recorded it. The name Bull-pen survived for many years, for as late as 1860 William Gilpin spoke of "the Northern Parc, or Bull-pen."[2] Gilpin, however, suggests a

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The Park is a narrow, somewhat rectangular loop of the Osage, including some bold bluffs in its bight (Expeditions of Z. M. Pike, ii. 381 *note*).

A glance at a map will show the "oxbow" made by the Osage at that point, perhaps five hundred miles east of the Rocky Mountains. It is clear, then, that Pike did not use the term in connection with the Rockies. The fact that in the original edition "Park" is printed in italics seems to indicate that Pike was using an unfamiliar word, — one which perhaps he got from his guides. Compare the extract, cited later in the text (p. 392), from Gilpin.

[1] Account of an Expedition from Pittsburg to the Rocky Mountains, . . . under the Command of Major Stephen H. Long (1823), i. 463, 464.

[2] The Central Gold Region (1860), p. 66. Between 1820 and 1860 a single example may be given. Under date of August, 1839, T. J. Farnham wrote:

> The Arrapahoes . . . wander in the winter season over the country about the head of the Great Kenyon of the Colorado of the West, and to a considerable distance down that.

different derivation, and says: "Scooped out of its main mass are valleys of great size and beauty, which have received from the trappers the name of *Parcs*."[1] As many of the trappers and guides were French, this is by no means impossible.[2] Gilpin was with Frémont for a while in May, 1843, on his way to Oregon; later he is said to have founded Portland, Oregon; in 1861 he was the first Territorial Governor of Colorado; and it would seem as if he ought to have been in a position to know. Yet I do not remember to have met with the statement elsewhere than in Gilpin's book.[3]

In 1847 Francis Parkman wrote:

> The western Dahcotah have no fixed habitations. Hunting and fighting, they wander incessantly, through summer and winter. Some are following the herds of buffalo over the waste of prairie; others are traversing the Black Hills, thronging, on horse-back and on foot, through the dark gulfs and sombre gorges, beneath the vast splintering precipices, and emerging at last upon the 'Parks,' those beautiful but most perilous hunting-grounds.[4]

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river; and in the summer hunt the buffalo in the New Park, or "Bull Pen," in the "Old Park" on Grand River, and in "Bayou Salade," on the South fork of the Platte (Travels in the Great Western Prairies, 1843, p. 63).

"Bayou Salade" was another name, in use for many years, for the South Park. It would not be without interest to give in full the history of this extraordinary appellation, but space forbids. Suffice it to say that the first word of the compound has apparently nothing to do with our familiar *bayou*, meaning a small stream or creek — a word not of French or Spanish, but of Indian, origin; and that "Bayou Salade" is a corruption of "Valle Salado," — the South Park having long been noted for its salt springs. In the solution of this riddle, I have been greatly aided by the researches of Mr. Edward H. Whorf.

[1] The Central Gold Region, p. 48. Throughout his book, Gilpin spells the word *parc*.

[2] Mr. Whorf calls my attention to some documents which show that as early certainly as 1748 the French rovers down the Mississippi began to follow the route which a century later had become famous as the Santa Fé trail. See Land of Sunshine (1898), viii. 127.

[3] The book, though to a certain extent interesting, is singular. When in Denver in 1887, I met Governor Gilpin, then seventy-three years of age, and I shall long remember his vivid description of the Continental Divide as "the backbone of the continent," his infectious enthusiasm for every thing relating to Colorado, and his earnest insistence that Colorado possessed the only truly *mountain* climate known in the world.

[4] Scenes at the Camp, in The Oregon Trail, Knickerbocker Magazine, De-

Under date of 13 August, 1853, Lieutenant Edward G. Beckwith said:

The labor of crossing the ridge was completed this morning, and just in advance of the 1 o'clock shower we encamped in, but near, the head of the southern descent of the pass, on the Sangre de Cristo, which is a small stream of clear, cold water, in a beautiful little park or valley. . . . Above this gorge or cañon there is a small park, such as are found on the heads of many of the streams in this part of the country, abounding in deer, elk, and bear, and affording luxuriant pasturage for thousands of head of cattle: indeed, few more inviting spots for grazing can anywhere be found.[1]

In 1856 Thomas H. Benton, alluding to Frémont's explorations, wrote:

In this eventful exploration all the great features of the western slope of our continent were brought to light — the Great Salt Lake, the Utah Lake, the Little Salt Lake; at all which places, then desert, the Mormons now are; the Sierra Nevada, then solitary in the snow, now crowded with Americans, digging gold from its flanks; the beautiful valleys of the Sacramento and San Joaquin, then alive with wild horses, elk, deer, and wild fowls, now smiling with American cultivation; the Great Basin itself and its contents; the Three Parks; the approximation of the great rivers which, rising together in the central region of the Rocky Mountains, go off east and west, towards the rising and the setting sun.[2]

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cember, 1847, xxx. 479. The passage will be found in chap. xi. of the published volume.

[1] Report of Explorations, p. 37, in Pacific Railroad Reports (1855), ii. Another extract from this Report is given because it shows us the christening of a small park. The person for whom it was named was Sheppard Homans, the astronomer of Capt. Gunnison's party. Under date of 31 August, 1853, Beckwith writes:

On the morning of the 29th instant Captain Gunnison, and Mr. Homans, accompanied by a guide and four or five men, left the main body of the party and continued up the San Luis valley for fourteen miles to its head, where a small park, into which several small streams flow and unite, forming a single creek, is nearly separated from the main valley by low hills extending from the mountains on either side, into the plain. To this park, which is ten miles in width by fourteen in length, as well as to the creek flowing from it, Captain Gunnison gave the name of his assistant, Mr. Homans, who located them (p. 45).

[2] Thirty Years' View, ii. 581.

In a letter dated Camp Floyd, Utah, 5 August, 1859, Assistant Adjutant-General Fitz John Porter gave the following instructions:

> On account of the imminent danger of being caught in the snows which fall early in the season in the elevated passes of the Rocky Mountains near the Parks, the commanding general will not risk sending you that way.
>
> Moreover, as from the plateau of the South Park an eastern outlet for wagons has not yet been discovered, he thinks it would be more advisable to attempt . . . to unite by a practicable road the eastern with the western slope of the Rocky Mountains.[1]

In 1859 De Witt C. Peters declared that—

> There are two of these natural Parks in the Rocky Mountains. To distinguish them they are called the Old Park and the New Park. As their names imply, they are fair natural examples of the manufactured parks of civilization. In some things nature has lavished upon them charms and beauties which no human skill can imitate. These parks are favorite haunts of the deer, antelope, and elk, while the streams which run through them are well stocked with otter and beaver.[2]

In 1864 Maurice O'C. Morris remarked:

> Indeed, no one should think of leaving this country without visiting the three Parks, which are to be found within a compass of one hundred and fifty miles, and which form a most peculiar feature of the Rocky Sierra. They are known by the names of North, Middle, and South, and are large basins in the heart of the mountains, whence issue some of the large rivers which water this part of the continent; the vegetation in them is abundant, and they are peopled by almost every species of wild animal.[3]

In 1866 Dr. Ferdinand V. Hayden wrote:

> The North Park is oval or nearly quadrangular in shape, is about 50 miles in extent, from east to west, and 30 miles from north to south, occupying an area of about 1,500 square miles. Viewing it from one of

---

[1] In Capt. J. H. Simpson's Report of Explorations across the Great Basin of the Territory of Utah (1876), p. 133. The statement in the text, coupled with the fact that Middle Park was originally called Old Park, seems to indicate that Middle Park was first approached by the whites from the Pacific slope.

[2] Life and Adventures of Kit Carson, p. 51.

[3] Rambles in the Rocky Mountains, p. 135.

the high mountains on its border, it appears like a vast depression which might once have formed the bed of a lake. Its surface is rather rugged, yet there are broad bottoms along the streams, especially the North Platte and its branches. Scarcely a tree is to be seen over the whole extent, while the mountains which wall it in on every side are dotted with a dense growth of pine. The grass grows in the park quite abundantly, often yielding at least two tons to the acre. Streams of the purest water flow through the park, and there are some of the finest springs I have yet seen, a few of them forming good-sized streams where they issue from the ground. I am quite confident that this entire park would make an excellent grazing region for at least six or eight months of the year. Myriads of antelopes were quietly feeding in this great pasture-ground like flocks of sheep.[1]

On 1 July, 1866, Bayard Taylor declared:

The Parks form a very remarkable feature of the mountain scenery. They resemble, on a smaller scale, the lofty, mountain-bounded table-lands of Cashmere and Thibet. They are still but imperfectly known, and still more imperfectly represented on the maps. I have not been able to find any minute description of their scenery, soil, and climate.[2]

In 1867 Major William F. Raynolds said that —

About latitude 38°, near the Spanish peaks, the main-dividing crest of the continent takes a westerly trend, and from this point branches off an outlying chain running nearly north and south. This, as it gradually diverges from the range, forms the easterly boundary of the "parks," in which the Arkansas and the Platte have their sources. Near latitude 41° the main crest trends still more rapidly to the westward, enclosing between it and the outlying range a wide and comparatively level tract, known as the "Laramie plains," which may be regarded as a fourth "park." In this series of "parks" the most striking feature is the northerly course of all the streams.[3]

Between 7 November and 16 December, 1871, the Legislature of Wyoming presented the following Memorial to the Hon. W. W. Belknap, Secretary of War:

Your memorialists, the legislative assembly of Wyoming territory, would respectfully represent, that North Park, one of the three great

[1] Second Annual Report of the United States Geological Survey of the Territories (1873), p. 87.

[2] Colorado (1867), p. 89.

[3] Report on the Exploration of the Yellowstone River (1868), p. 6.

parks of the Rocky Mountain region is situate partly in Wyoming and partly in Colorado territory, that the chief outlet to said park is at Laramie City, on the Union Pacific Railroad, in this territory, that the Indian title to lands embraced within said parks have been extinguished.

Your memorialists would further represent that the area of said park is fully 3,000 square miles, or nearly two millions of acres of land, all of which is peculiarly fitted for grazing purposes; that many cattle and sheep growers of this territory desire to place their herds and flocks in said park, but that owing to the roving bands of Indians who from time to time pass through said park and commit depredations, it is considered unsafe. . . .

Your memorialists would, therefore, respectfully but earnestly request that a military post be established in said park, at such place as your department shall deem best, believing that the establishment of such a post would lead to the early settlement of said park, and to many valuable discoveries in minerals.[1]

In 1872 Dr. Hayden, referring to Box Elder Park in Utah, said:

In the park the river terraces are well defined. . . . The park is surrounded by high mountains, which protect it from great extremes of temperature, and the elevation above the sea is 4,958 feet. The mountainous portions of Northern Utah are full of these beautiful park-like areas, which are most probably the remains of an ancient lake.[2]

In 1874 Colonel James F. Rusling remarked:

These "parks," so called, are a peculiar feature of the Rocky Mountains and play an important part in the scenery. There are five of them — North, Middle, South, Homan's, and San Luis — of which we passed through the last three. They constitute in reality a great system of plateaus or valleys, morticed as it were into the very heart of the mountains, from twenty-five to fifty miles long by half as many wide, disconnected by intervening ranges, yet all alike in their general features.[3]

In 1893 Dr. Elliott Coues wrote:

In the summer of 1877 I conducted an expedition of the U. S. Geological and Geographical Survey through North and Middle Park. We

[1] General Laws, Resolutions and Memorials of the Territory of Wyoming, passed at the Second Session of the Legislative Assembly (1872), pp. 138, 139.

[2] Fifth Annual Report of the United States Geological Survey of the Territories (1872), p. 18.

[3] Across America, p. 94.

started from Cheyenne, Wyo., crossed Medicine Bow mountains, and entered North Park by an easy road from the north. Across the Park, to the southwest, is visible Rabbit-ears mountain, so-called from a pair of peaks it presents. We crossed to the foot of this mountain, where we discovered that a way could be found or made into Middle Park, practicable for our wagons. One of the ultimate sources of the North Platte comes down from the Rabbit-ears; but on skirting around the base of this mountain we found ourselves on a head of Muddy creek, one of the side-sources of Grand river. It was but a step from one to the other, and perfectly practicable for a wagon-road, though we had one upset from carelessness of the driver. There was, however, no sign of a road by the way we came for several miles, and probably no wagon had before passed over the ground there.[1]

When Frémont made his tour of the Parks in 1844, he found them filled with buffalo, antelope, elk, and Indians. The last in particular caused him great anxiety, because a fight was in progress between five hundred Sioux and Arapahoes, and there was every reason for fearing that both contestants, differing about other matters, would at least agree in falling upon him and his party. When the present writer travelled over much of the same route in 1887, there was not an Indian in the entire region, the buffalo had long since disappeared, the game had sought more secluded spots, and, though the country was still rough, the Parks were dotted with ranches and settlements, and the entire aspect of things had altered. I was entirely alone and unarmed, and one day rode fifty miles between inhabited ranches; still, there was no danger from man or beast. Yet this vast change had taken place in barely more than forty years.[2]

POSTSCRIPT.

The publication in November, 1905, of Mr. Langford's Diary of the Washburn Expedition to the Yellowstone and Firehole Rivers In the Year 1870, requires a modification of the statement made above (p. 375) that "to Dr. Hayden more than to any other one man was due" the accomplishment of the Yellowstone National

[1] History of the Lewis and Clark Expedition, ii. 485, 486 *notes*.

[2] It should perhaps be added that in addition to National Parks, there are in the United States various State Parks, City Parks, and, in Massachusetts at least, Metropolitan Parks.

Park project. It is clear that the honor must be pretty equally shared between Mr. Hedges, Mr. Langford, Mr. W. H. Clagett, and Dr. Hayden. But it still remains true that the idea of creating the Park originated with Mr. Hedges; indeed, from the pages of Mr. Langford's book, we get an interesting glimpse into the very inception of the idea. It was first broached on 19 September, 1870, and on the next day Mr. Langford wrote in his Diary:

> Last night, and also this morning in camp, the entire party had a rather unusual discussion. The proposition was made by some member that we utilize the result of our exploration by taking up quarter sections of land at the most prominent points of interest, and a general discussion followed. One member of our party suggested that if there could be secured by pre-emption a good title to two or three quarter sections of land opposite the lower fall of the Yellowstone and extending down the river along the canon, they would eventually become a source of great profit to the owners. Another member of the party thought that it would be more desirable to take up a quarter section of land at the Upper Geyser Basin, for the reason that that locality could be more easily reached by tourists and pleasure seekers. A third suggestion was that each member of the party pre-empt a claim, and in order that no one should have an advantage over the others, the whole should be thrown into a common pool for the benefit of the entire party.
>
> Mr. Hedges then said that he did not approve of any of these plans — that there ought to be no private ownership of any portion of that region, but that the whole of it ought to be set apart as a great National Park, and that each one of us ought to make an effort to have this accomplished. His suggestion met with an instantaneous and favorable response from all — except one — of the members of our party, and each hour since the matter was first broached, our enthusiasm has increased. It has been the main theme of our conversation to-day as we journeyed. I lay awake half of last night thinking about it; — and if my wakefulness deprived my bed-fellow (Hedges) of any sleep, he has only himself and his disturbing National Park proposition to answer for it (pp. 117, 118).

It is worth noting that there is no mention of the Park project[1]

[1] Mr. Hedges's Journal is printed in Contributions to the Historical Society of Montana (1904), v. 370–394. Other interesting allusions to the Yellowstone region will be found in the same Contributions, i. 113–143, 149–233, 268–284, ii. 331, 332, iii. 153–174, iv. 157, 158, 160.

in the Journal kept by Mr. Hedges at the time, though in a note dated August, 1904, Mr. Hedges wrote:

It was at the camp after leaving the lower Geyser basin when all were speculating which point in the region we had been through would become most notable, that I first suggested the uniting all our efforts to get it made a National Park, little dreaming that such a thing were possible.

ANNUAL MEETING, NOVEMBER, 1904.

THE ANNUAL MEETING was held at the University Club, No. 270 Beacon Street, Boston, on Monday, 21 November, 1904, at six o'clock in the afternoon, the President, GEORGE LYMAN KITTREDGE, LL.D., in the chair.

The Records of the last Stated Meeting were read and approved.

The Annual Report of the Council was presented and read by Mr. ALBERT MATTHEWS.

REPORT OF THE COUNCIL.

Since the Annual Meeting in November last, the usual five Stated Meetings of the Society have been held in the building of the American Unitarian Association. For the courtesy which has been so liberally extended, the Council has already expressed to the Association the thanks of the Society.

During the year we have lost by death two Resident Members,

HENRY DWIGHT SEDGWICK.
HENRY WALBRIDGE TAFT;

and one Corresponding Member,

JOHN ANDREW PETERS.

There have been added to our Rolls four Resident Members,

AUGUSTUS PEABODY LORING.
FRANCIS BLAKE.
THORNTON MARSHALL WALL.
ADAMS SHERMAN HILL.

and one Corresponding Member,

HERBERT PUTNAM.

The papers communicated at our meetings have, as usual, covered a wide range both in time and subject, and have provoked interesting discussions and comments.

Volume VI. of our Publications has been completed and is now in the hands of the members.

The Treasurer's Report will show in detail the financial condition of the Society, but the Council wishes to call particular attention to one gift. Mrs. Sarah Moody Toppan has presented to the Society Five Thousand Dollars, to be added to the publication fund, as a memorial to her husband, our late associate, Robert Noxon Toppan. The nature and the object of this gift are peculiarly gratifying.

It gives the Council great pleasure to make to the Society the important announcement that the sum of Five Thousand Dollars has been subscribed to provide for the salary of an Editor of Publications; and the Council will at this meeting ask the Society to take such measures as are necessary to make this sum available for its special purpose. This amount has been generously contributed by the following members:

GEORGE VASMER LEVERETT,
HENRY WINCHESTER CUNNINGHAM,
FREDERICK LEWIS GAY,
GEORGE NIXON BLACK,
CHARLES GODDARD WELD,
JOSHUA MONTGOMERY SEARS,
CHARLES FRANCIS CHOATE,
GARDINER MARTIN LANE,
HENRY LEE HIGGINSON,
THOMAS MINNS,
WALTER CABOT BAYLIES.

For the next five years, therefore, the salary of the Editor of Publications is assured; and it is hoped that at the end of that period, through gifts which shall meanwhile be presented to the Society, it will not again be necessary to appeal for a special subscription.

The Treasurer submitted his Annual Report, as follows:

REPORT OF THE TREASURER.

The By-Laws require of the Treasurer, at the Annual Meeting, a statement of his financial transactions during the preceding year, of the amount and condition of the Funds, and of the character of the investments. In obedience to this provision, I have the honor to submit the following Report.

CASH ACCOUNT.

RECEIPTS.

Balance, 19 November, 1903		$1,063.12
Admission Fees	$40.00	
Annual Assessments	700.00	
Commutation of the Annual Assessment of two members	200.00	
Sales of the Society's Publications	2.80	
Interest	2,151.35	
Mortgages assigned or discharged	16,300.00	
Withdrawn from Charlestown Five Cents Savings Bank for investment	300.00	
Subscriptions towards the salary of an Editor of Publications	1,200.00	
Sarah Moody Toppan, to constitute a permanent publication Fund in memory of her husband	5,000.00	25,894.15
		$26,957.27

EXPENDITURES AND INVESTMENTS.

University Press: printing and paper	$1,234.45	
A. W. Elson & Co.: photogravure plates and plate printing	168.40	
Index of Volume VI	100.00	
Clerk hire	55.10	
William H. Hart, auditing	5.00	
Miscellaneous incidentals	284.84	
Deposited in Charlestown Five Cents Savings Bank	304.86	
Mortgages on improved Real Estate in Boston	22,800.00	
Interest in adjustment	310.85	25,263.50
Balance on deposit in State Street Trust Company of Boston, 15 November, 1904		1,693.77
		$26,957.27

The Funds of the Society are invested as follows:

$42,200.00	in First Mortgages, payable in gold coin, on improved property in Boston and Cambridge; and
30.50	deposited in the Charlestown Five Cents Savings Bank.
$42,230.50	

TRIAL BALANCE.

DEBITS.

Cash		$1,693.77
Mortgages	$42,200.00	
Charlestown Five Cents Savings Bank	30.50	42,230.50
		$43,924.27

CREDITS.

Income		$1,693.77
Editor's Salary Fund	$1,200.00	
Publication Fund	1,100.00	
General Fund	4,930.50	
Gould Memorial Fund	10,000.00	
Edward Wheelwright Fund	10,000.00	
Robert Charles Billings Fund	10,000.00	
Robert Noxon Toppan Fund	5,000.00	42,230.50
		$43,924.27

HENRY H. EDES,
Treasurer.

BOSTON, 15 November, 1904.

The Committee, consisting of Messrs. FRANCIS BLAKE and JOHN NOBLE, Jr., appointed to examine the accounts of the Treasurer for the year ending 15 November, 1904, reported, through Mr. Noble, that the accounts had been accurately kept and were properly vouched, that the Cash Balance had been verified, and that the evidences of the Investments had been examined.

The several Reports were accepted and referred to the Committee of Publication.

Mr. S. LOTHROP THORNDIKE, on behalf of the Committee

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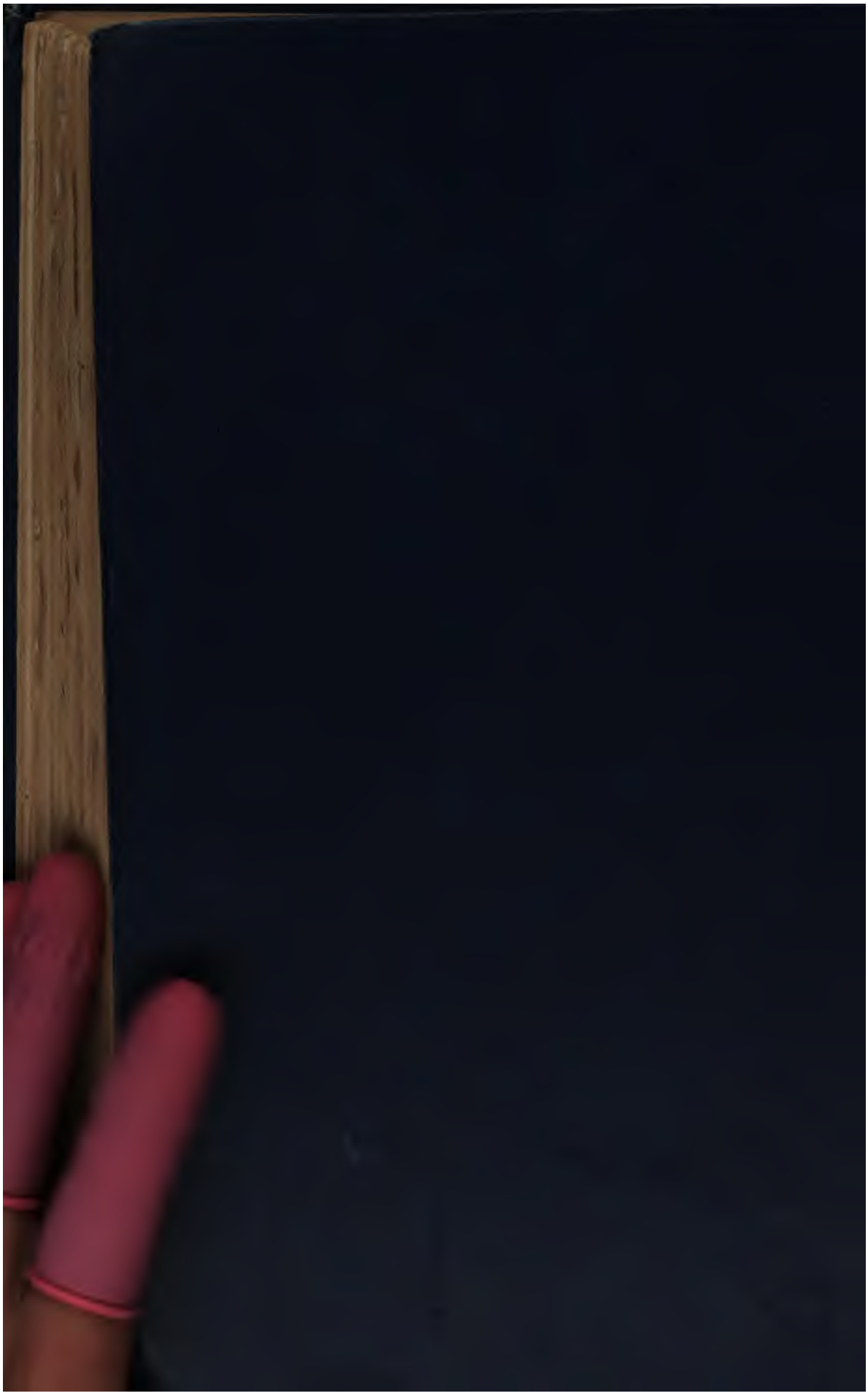
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